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Contents

Federal Register

Vol. 70, No. 83

Monday, May 2, 2005

Agency for Healthcare Research and Quality
NOTICES
Committees; establishment, renewal, termination, etc.:
Healthcare Research and Quality National Advisory Council, 22661–22662

Agricultural Marketing Service
NOTICES
Pea pods; grade standards, 22627–22628

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Commodity Credit Corporation
See Food and Nutrition Service
See Forest Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 22627

Animal and Plant Health Inspection Service
RULES
Exportation, importation, and interstate transportation of animals and animal products:
Brucellosis in swine—
Validated brucellosis-free States; list additions, 22588–22589
Plant-related quarantine, foreign:
Wood packaging material, etc.; definitions, general permits, etc.; CFR correction, 22585–22588
PROPOSED RULES
Plant-related quarantine, foreign:
Nursery stock; meeting, 22612–22613

Army Department
See Engineers Corps

Children and Families Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 22662–22663
Privacy Act:
Computer matching programs, 22663–22664

Coast Guard
NOTICES
Reports and guidance documents; availability, etc.:
Notification of the imposition of conditions of entry for certain vessels arriving to the United States; enforcement of policy, 22668

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 22629–22630

Commission of Fine Arts
NOTICES
Meetings, 22649

Commodity Credit Corporation
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 22628

Defense Department
See Engineers Corps
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities; proposals, submissions, and approvals, 22650–22651
Meetings:
Defense Base Closure and Realignment Commission, 22651–22652
Independent Review Panel to Study Relationships between Military Department General Counsels and Judge Advocates General, 22652
Sexual Harassment and Violence at the Military Service Academies Task Force, 22652–22653

Drug Enforcement Administration
RULES
Controlled substances; manufacturers, distributors, and dispensers; registration:
Reverse distributors; definition and registration, 22591–22595
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 22703–22704
Applications, hearings, determinations, etc.:
Lilly Del Caribe, Inc., 22704
Roche Diagnostic Operations, Inc., 22704

Employment and Training Administration
NOTICES
Adjustment assistance:
Automatic Lathe Cutterhead et al., 22707
DyStar LP, 22707–22708
Federal-Mogul, 22708
Flowline Division of Markovitz Enterprises, Inc., et al., 22708–22709
Interstate Iron Works, 22709
Oneida Ltd., et al., 22709
Pennsylvania Veneer Corp., et al., 22709–22714
Spartech Polycom et al., 22714–22716
Spherion Corp., et al., 22716
Vishay Intertechnology, 22716
Agency information collection activities; proposals, submissions, and approvals, 22716–22717

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Meetings:
Environmental Management Site-Specific Advisory Board—
Fernald Site, OH, 22654
Paducah Gaseous Diffusion Plant, KY, 22654–22655

Engineers Corps
NOTICES
Environmental statements; notice of intent:
Sacremento County, CA; Lower American River Common Features Project, 22653–22654

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Iowa, 22599–22603
Missouri, 22603–22606
Washington, 22597–22599
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 22606–22610
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Iowa, 22623
Kentucky, 22623
Missouri, 22623–22624
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 22624
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 22657–22658

Executive Office of the President
See Trade Representative, Office of United States

Federal Aviation Administration
RULES
Class E airspace, 22590–22591
PROPOSED RULES
Airworthiness directives:
BAE Systems (Operations) Ltd., 22615–22618
Boeing, 22618–22622
McDonnell Douglas, 22613–22615
NOTICES
Aeronautical land-use assurance; waivers:
Millville Municipal Airport, NJ, 22748–22749

Federal Bureau of Investigation
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 22704–22705

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulations filings, 22655–22657

Federal Highway Administration
RULES
Uniform relocation assistance and real property acquisition for Federal and federally-assisted programs
Correction, 22610–22611

Federal Railroad Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 22749–22750
Safety advisories, bulletins, and directives:
Highway-rail grade crossing safety, 22750–22754

Federal Trade Commission
NOTICES
Premerger notification waiting periods; early terminations, 22658–22661

Fine Arts Commission
See Commission of Fine Arts

Fish and Wildlife Service
PROPOSED RULES
Migratory bird hunting:
Tungsten-copper-tin-iron shot approval as nontoxic for waterfowl hunting, 22624–22625
Tungsten-iron-copper-nickel shot approval as nontoxic for waterfowl hunting, 22625–22626
NOTICES
Environmental statements; availability, etc.:
Incidental take permits—
Golden-cheeked warbler, 22681–22682
Migratory bird permits:
Allowed take of nestling American Peregrine Falcons, 22682–22683

Food and Drug Administration
NOTICES
Reports and guidance documents; availability, etc.:
Toxicity grading scale for healthy adult and adolescent volunteers enrolled in preventative vaccine clinical trials, 22664–22665

Food and Nutrition Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 22628–22629

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Missouri, 22630
North Carolina
Diebold, Inc.; automated teller machines manufacturing and warehousing facilities, 22630–22631

Forest Service
NOTICES
Meetings:
Resource Advisory Committees—
Tuolumne County, 22629

General Services Administration
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities; proposals, submissions, and approvals, 22650–22651

Government Ethics Office
NOTICES
Intelligence Reform and Terrorism Prevention Act:
Executive branch employees; criminal conflict of interest review; public comment, 22661

Health and Human Services Department
See Agency for Healthcare Research and Quality
See Children and Families Administration
See Food and Drug Administration
See Substance Abuse and Mental Health Services Administration

NOTICES
Meetings:
Blood Safety and Availability Advisory Committee, 22661

Homeland Security Department
See Coast Guard
NOTICES
Meetings:
Homeland Security Science and Technology Advisory Committee, 22667–22668

Housing and Urban Development Department
NOTICES
Grant and cooperative agreement awards:
Housing Counseling Program, 22668–22681

Inter-American Foundation
NOTICES
Meetings; Sunshine Act, 22681

Interior Department
See Fish and Wildlife Service
See Land Management Bureau

Internal Revenue Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 22759
Committees; establishment, renewal, termination, etc.:
Information Reporting Program Advisory Committee, 22759–22760
Meetings:
Taxpayer Advocacy Panels, 22760–22761

International Trade Administration
NOTICES
Antidumping:
Carbon and certain alloy steel wire rod from—
Trinidad and Tobago, 22634–22635
Preserved mushrooms from—
China, 22635
Antidumping and countervailing duties:
Administrative review requests, 22631–22632
Five year (sunset) reviews—
Initiation of reviews, 22632–22634
North American Free Trade Agreement (NAFTA); binational panel reviews:
Carbon and certain alloy steel wire rod from—
Canada, 22635–22636
Uruguay Round Agreements Act: antidumping:
Softwood lumber products from—
Canada, 22636–22646

International Trade Commission
NOTICES
Import investigations:
Carbon and alloy seamless standard, line, and pressure pipe from—
Various countries, 22688–22691
Mechanical transfer presses from—
Japan, 22691–22693
Non-frozen concentrated apple juice from—
China, 22694–22696
Structural steel beams from—
Various countries, 22696–22698
Sulfanilic acid from—
Various countries, 22698–22701
Synthetic indigo from—
China, 22701–22703

Justice Department
See Drug Enforcement Administration
See Federal Bureau of Investigation
See Justice Programs Office

Justice Programs Office
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 22705–22707

Labor Department
See Employment and Training Administration

Land Management Bureau
NOTICES
Environmental statements; notice of intent:
Campbell County, WY; coal lease adjacent to Eagle Butte Mine, 22683–22684
Meetings:
National Historic Oregon Trail Interpretive Center Advisory Board, 22684
Pinedale Anticline Working Group task groups, 22684–22685
Oil and gas leases:
Wyoming, 22685–22688

Maritime Administration
NOTICES
Voluntary Intermodel Sealift Agreement, 22754–22755

National Aeronautics and Space Administration
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities; proposals, submissions, and approvals, 22650–22651

National Credit Union Administration
RULES
Credit unions:
Security program; unauthorized access to member information and member notice; response programs; guidance, 22764–22780

National Oceanic and Atmospheric Administration
NOTICES
Fishery conservation and management:
Pacific halibut; recreational halibut fishery, 22646
Meetings:
New England Fishery Management Council, 22646–22647
Western Pacific Fishery Management Council, 22648–22649
Permits:
Exempted fishing, 22649

National Science Foundation
NOTICES
Antarctic Conservation Act of 1978; permit applications, etc., 22717–22718
Environmental statements; availability, etc.:
Arctic activities, 22718–22719
Meetings:
Education and Human Resources Advisory Committee, 22719

Nuclear Regulatory Commission
NOTICES
Reports and guidance documents; availability, etc.:
Abnormal occurrences; FY 2004 Congressional report, 22722–22728

Groundwater restoration at uranium in-situ leach mining facilities; consideration of geochemical issues, 22728–22729
ISCORS Assessment of Radioactivity in Sewage Sludge: Modeling to Assess Radiation Doses, 22729–22730
Reactive geochemical transport Model RATEQ; documentation and applications, 22730–22731
Applications, hearings, determinations, etc.:
FirstEnergy Nuclear Operating Co., 22719–22722

Office of United States Trade Representative
See Trade Representative, Office of United States

Pipeline and Hazardous Materials Safety Administration
NOTICES
Hazardous materials:
Applications; exemptions, renewals, etc., 22755–22756
Transportation—
Radioactive material; public comments, 22756–22757

Postal Service
NOTICES
Meetings; Sunshine Act, 22731

Presidio Trust
NOTICES
Meetings, 22731

Securities and Exchange Commission
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 22731–22732
Self-regulatory organizations; proposed rule changes:
National Association of Securities Dealers, Inc., 22732–22736
New York Stock Exchange, Inc., 22736–22738
Pacific Exchange, Inc., 22738–22745

Small Business Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 22745–22746
Disaster loan areas:
Mississippi, 22746
New Jersey, 22746
New York, 22746–22747
Pennsylvania, 22747

Substance Abuse and Mental Health Services Administration
NOTICES
Federal agency urine drug testing; certified laboratories meeting minimum standards, list, 22665–22667

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
Union Pacific Railroad Co., 22757–22758
Railroad services abandonment:
Union Pacific Railroad Co., 22758

Tennessee Valley Authority
NOTICES
Meetings; Sunshine Act, 22747–22748

Thrift Supervision Office
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 22761

Trade Representative, Office of United States
NOTICES
Government-funded airport construction projects; list of countries denying fair market opportunities, 22748

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
See Maritime Administration
See Pipeline and Hazardous Materials Safety Administration
See Surface Transportation Board

Treasury Department
See Internal Revenue Service
See Thrift Supervision Office
NOTICES
Meetings:
Federal Tax Reform, President's Advisory Panel, 22758–22759

Veterans Affairs Department
RULES
Loan guaranty:
Hybrid adjustable rate mortgages, 22596–22597
Medical benefits:
Elimination of copayment for smoking cessation counseling, 22595–22596
NOTICES
Meetings:
CARES Business Plan Studies Advisory Committee, 22761–22762

Separate Parts In This Issue

Part II
National Credit Union Administration, 22764–22780

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
319 22585
Proposed Rules:
319 22612

9 CFR
78 22588

12 CFR
748 22764

14 CFR
71 22590
Proposed Rules:
39 (4 documents) 22613, 22615, 22618, 22620

21 CFR
1300 22591
1301 22591
1304 22591
1305 22591
1307 22591

38 CFR
17 22595
36 22596

40 CFR
52 (3 documents) 22597, 22599, 22603
70 (2 documents) 22599, 22603
300 22606
Proposed Rules:
52 (3 documents) 22623
70 (2 documents) 22623
300 22624

47 CFR
27 22610

50 CFR
Proposed Rules:
20 (3 documents) 22624, 22625

Rules and Regulations

Federal Register
Vol. 70, No. 83
Monday, May 2, 2005

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

Foreign Quarantine Notices

CFR Correction

■ In Title 7 of the Code of Federal Regulations, Parts 300 to 399, revised as of January 1, 2005, make the following corrections:

■ 1. In § 319.40–1 the definitions for *Regulated wood packaging material* and *Wood packaging material* are removed; the definitions for *Exporter statement, Importer statement,* and *Solid wood packing material* are reinstated; and an effective date note with future effective text is added to the end of the section to read as follows:

§ 319.40–1 Definitions.

* * * * *

Exporter statement. A written declaration by the exporter, accompanying a shipment at the time of importation, declaring the nature of the shipment and that the shipment contains no solid wood packing material.

* * * * *

Importer statement. A written declaration by the importer, for a shipment containing solid wood packing material from the Peoples Republic of China including Hong Kong, affirming that the importer has on file at his or her office the certificate required under § 319.40–5(g)(2)(i).

* * * * *

Solid wood packing material. Wood packing materials other than loose wood packing materials, used or for use with cargo to prevent damage, including, but not limited to, dunnage, crating, pallets, packing blocks, drums, cases, and skids.

* * * * *

Effective Date Note: At 69 FR 55732, Sept. 16, 2004, § 319.40–1 was amended by removing the definitions for *Exporter statement*, *Importer statement*, and *Solid wood packing material*, and adding two definitions in alphabetical order, effective Sept. 16, 2005. For the convenience of the user, the added text is set forth as follows:

§ 319.40–1 Definitions.

* * * * *

Regulated wood packaging material. Wood packaging material other than manufactured wood materials, loose wood packing materials, and wood pieces less than 6 mm thick in any dimension, that are used or for use with cargo to prevent damage, including, but not limited to, dunnage, crating, pallets, packing blocks, drums, cases, and skids.

* * * * *

Wood packaging material. Wood or wood products (excluding paper products) used in supporting, protecting or carrying a commodity (includes dunnage).

■ 2. In §319.40–3, paragraph (b) is correctly revised, and an effective date note with future effective text is added to the end of the section to read as follows:

§ 319.40–3 General permits; articles that may be imported without a specific permit; articles that may be imported without either a specific permit or an importer document.

* * * * *

(b) *Solid wood packing materials*—(1) *Free of bark; used with non-regulated articles.* APHIS hereby issues a general permit to import regulated articles authorized by this paragraph, except that solid wood packing material from the People's Republic of China including Hong Kong must be imported in accordance with § 319.40–5(g), (h), and (i). Solid wood packing materials that are completely free of bark and are in actual use at the time of importation as packing materials for articles which are not regulated articles may be imported without restriction under this subpart, except that:

(i) The solid wood packing materials are subject to the inspection and other requirements in § 319.40–9; and

(ii) The solid wood packing materials must be accompanied at the time of importation by an importer document, stating that the solid wood packing materials are totally free from bark, and apparently free from live plant pests.

(2) *Free of bark; used with regulated articles.* APHIS hereby issues a general permit to import regulated articles authorized by this paragraph, except that solid wood packing material from the People's Republic of China including Hong Kong must be imported in accordance with § 319.40–5(g), (h), and (i). Solid wood packing materials that are completely free of bark and are in actual use at the time of importation as packing materials for regulated articles may be imported without restriction under this subpart, except that:

(i) The solid wood packing materials are subject to the inspection and other requirements in § 319.40–9;

(ii) The solid wood packing materials must be accompanied at the time of importation by an importer document, stating that the solid wood packing materials are totally free from bark, and apparently free from live plant pests; and

(iii) The solid wood packing materials must be accompanied at the time of importation by an importer document, stating that the solid wood packing materials have been heat treated, fumigated, or treated with preservatives in accordance with § 319.40–7, or meet all the importation and entry conditions required for the regulated article the solid wood packing material is used to move.

(3) *Not free of bark; used with regulated or nonregulated articles.* APHIS hereby issues a general permit to import regulated articles authorized by this paragraph, except that solid wood packing material from the People's Republic of China including Hong Kong must be imported in accordance with § 319.40–5(g), (h), and (i). Solid wood packing materials that are not completely free of bark and are in actual use as packing at the time of importation may be imported without restriction under this subpart, except that:

(i) The solid wood packing materials are subject to the inspection and other requirements in § 319.40–9;

(ii) The solid wood packing materials must be accompanied at the time of importation by an importer document, stating that the solid wood packing materials have been heat treated, fumigated, or treated with preservatives in accordance with § 319.40–7.

(4) *Pallets moved as cargo.* APHIS hereby issues a general permit to import

regulated articles authorized by this paragraph. Pallets that are completely free of bark and that are not in actual use as packing at the time of importation (i.e., pallets moved as cargo) may be imported without restriction under this subpart, except that:

(i) The pallets are subject to the inspection and other requirements in § 319.40–9; and

(ii) The pallets are accompanied by an importer document stating that the pallets were previously eligible for importation in accordance with paragraph (b) of this section and have not had wood added to them since that use. Solid wood packing materials other than pallets that are imported as cargo must be imported in accordance with the requirements of this subpart for raw lumber.

* * * * *

Effective Date Note: At 69 FR 55732, Sept. 16, 2004, § 319.40–3 was amended by revising paragraph (b), effective Sept. 16, 2005. For the convenience of the user, the revised text is set forth as follows:

§ 319.40–3 General permits; articles that may be imported without a specific permit; articles that may be imported without either a specific permit or an importer document.

* * * * *

(b) *Regulated wood packaging material.* Regulated wood packaging material, whether in actual use as packing for regulated or nonregulated articles or imported as cargo, may be imported into the United States under a general permit in accordance with the following conditions:

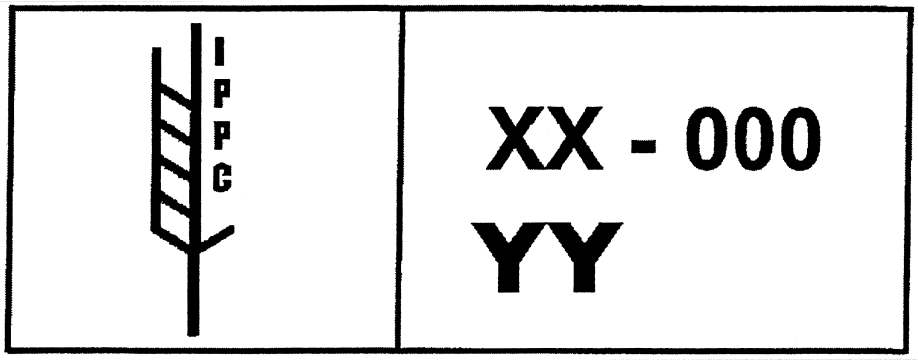
(1) *Treatment.* The wood packaging material must have been:

(i) Heat treated to achieve a minimum wood core temperature of 56 °C for a minimum of 30 minutes. Such treatment may employ kiln-drying, chemical pressure impregnation, or other treatments that achieve this specification through the use of steam, hot water, or dry heat; or,

(ii) Fumigated with methyl bromide in an enclosed area for at least 16 hours at the following dosage, stated in terms of grams of methyl bromide per cubic meter or pounds per 1,000 cubic feet of the enclosure being fumigated. Following fumigation, fumigated products must be aerated to reduce the concentration of fumigant below hazardous levels, in accordance with label instructions approved by the U.S. Environmental Protection Agency:

Temperature (°C/ °F)	Initial dose g/m³ and lbs./ 1,000 c.f)	Minimum required concentration g/m³ and lbs./1,000 c.f.) after:			
		0.5 hrs	2 hrs.	4 hrs.	16 hrs.
21/70 or above	48/3.0	36/2.25	24/1.5	17/1.06	14/0.875
16/61 or above	56/3.5	42/2.63	28/1.75	20/1.25	17/1.06
11/52 or above	64/4.0	48/3.0	32/2.0	22/1.38	19/1.19

(2) *Marking.* The wood packaging material must be marked in a visible location on each article, preferably on at least two opposite sides of the article, with a legible and permanent mark that indicates that the article meets the requirements of this paragraph. The mark must be approved by the International Plant Protection Convention in its International Standards for Phytosanitary Measures to certify that wood packaging material has been subjected to an approved measure, and must include a unique graphic symbol, the ISO two-letter country code for the country that produced the wood packaging material, a unique number assigned by the national plant protection agency of that country to the producer of the wood packaging material, and an abbreviation disclosing the type of treatment (*e.g.*, HT for heat treatment or MB for methyl bromide fumigation). The currently approved format for the mark is as follows, where XX would be replaced by the country code, 000 by the producer number, and YY by the treatment type (HT or MB):



(3) *Immediate reexport of regulated wood packaging material without required mark.* An inspector at the port of first arrival may order the immediate reexport of regulated wood packaging material that is imported without the mark required by paragraph (b)(2) of this section, in addition to or in lieu of any port of first arrival procedures required by § 319.40–9 of this part.

(4) *Exception for Department of Defense.* Regulated wood packaging material used by the Department of Defense (DOD) of the U.S. Government to package nonregulated articles, including commercial shipments pursuant to a DOD contract, may be imported into the United States without the mark required by paragraph (b)(2) of this section.

* * * * *

(Approved by the Office of Management and Budget under control numbers 0579–0049 and 0579–0225.)

■ 3. In § 319.40–5, paragraphs (b)(1)(i)(C), (b)(2), and (b)(2)(i), the words ''regulated wood packaging material'' are removed each time they occur and the words ''solid wood packing materials'' are reinstated in their place, paragraphs (g) through (k) are reinstated, and an effective date note with future effective text is added to the end of the section to read as follows:

§ 319.40–5 Importation and entry requirements for specified articles.

* * * * *

(g) *Solid wood packing material and merchandise from the Peoples Republic of China including Hong Kong.* This paragraph does not apply to shipments transitting the Peoples Republic of China including Hong Kong from other countries en route to the United States, unless merchandise or solid wood packing material is added to such shipments while in the Peoples Republic of China including Hong Kong. Otherwise, merchandise exported from the Peoples Republic of China including Hong Kong that is accompanied by solid wood packing material may only be entered into the United States in accordance with this paragraph (g) and paragraph (i) of this section. This restriction applies to both merchandise that originated in the Peoples Republic of China including Hong Kong and merchandise that entered the Peoples Republic of China including Hong Kong for further processing or packaging, regardless of whether the merchandise moves directly from the Peoples Republic of China including Hong Kong to the United States or transits other countries en route to the United States.

(1) Prior to exportation from the Peoples Republic of China including Hong Kong, any solid wood packing material must be heat treated, fumigated and aerated, or treated with preservatives, using a treatment schedule contained in § 319.40–7 or in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter. During the entire interval between treatment and export the solid wood packing material must be stored, handled, or safeguarded in a manner which excludes any infestation of the solid wood packing material by plant pests.

(2) Any merchandise accompanied by solid wood packing material exported from the Peoples Republic of China including Hong Kong may only be entered if the importer has on file at its office, and retains there for a period of one year following the date of importation, the following documents:

(i) A certificate signed by an official of the applicable government agency authorized by the government of the Peoples Republic of China or the government of the Hong Kong Special Administrative Region, stating that the solid wood packing material, prior to export from the Peoples Republic of China including Hong Kong, has been heat treated, fumigated and aerated, or treated with preservatives using a treatment schedule contained in § 319.40–7 or in the Plant Protection and Quarantine Treatment Manual, and

(ii) An importer statement (a written statement by the importer affirming that the importer has on file at his or her office the certificate required under paragraph (g)(2)(i) of this section).

(3) In addition to the document requirements of paragraph (g)(2) of this section, a copy of the certificate must accompany all shipments that do not enter using the United States Customs Service's electronic entry filing and Automated Broker Interface.

(4) Upon the request of an APHIS inspector or a United States Customs Service officer, the importer must produce a copy of the certificate and importer statement issued for any shipment.

(5) At their option, in order to expedite release of a shipment, an importer may provide a certificate to the APHIS inspector at the port of first arrival prior to the arrival of the shipment. Exporters may also at their option, in order to expedite release of their shipment at the port of first arrival, arrange to have each article of solid wood packing material that has been treated marked at the treatment facility with a stamp or weatherproof label that reads CHINA TREATED. This type of marking, however, is not a substitute for the required certificate.

(6) If an APHIS inspector determines that a shipment imported from the Peoples Republic of China including Hong Kong contains plant pests, or contains solid wood packing material that was not heat treated, fumigated and aerated, or treated with preservatives, the APHIS inspector may refuse entry of the entire shipment (merchandise and solid wood packing material). If an importer does not produce upon request by an APHIS inspector the certificate required for a shipment imported from the Peoples Republic of China including Hong Kong containing solid wood packing material, the APHIS inspector may refuse entry into the United States of the entire shipment (merchandise and solid wood packing material) until the certificate is produced. For any shipment refused entry, if the APHIS inspector determines that the merchandise may be separated from the solid wood packing material and that the solid wood packing material may be destroyed or reexported without risk of spreading plant pests, the inspector may allow the importer to separate the merchandise from the solid wood packing material at a location and within a time period specified by the inspector to prevent the dissemination of plant pests, and destroy or reexport the solid wood packing material under supervision of an inspector. The means used to destroy solid wood packing material under this section must be incineration, or chipping followed by incineration. The importer shall be responsible for all costs associated with inspection, separation, and destruction or reexportation of any solid wood packing material, including costs of the services of an inspector to monitor such activities, in accordance with § 354.3(j) of this chapter. Any such costs may be charged to the importer's customs bond.

(h) *Cargo from the Peoples Republic of China including Hong Kong that does not contain solid wood packing material.* Merchandise exported from the Peoples Republic of China including Hong Kong that is not accompanied by any solid wood packing material must have attached to the commercial invoice, the bill of lading, or the airway bill, an exporter statement stating that the shipment contains no solid wood packing material. As an alternative to attaching the exporter statement to the paperwork presented at entry, the importer may provide the exporter statement to the APHIS inspector at the port of entry prior to arrival of the shipment. Any shipment is subject to inspection for solid wood packing material, and if such inspection is ordered by an inspector, the shipment will not be granted entry into the United States prior to completion of the inspection. If the inspection reveals solid wood packing material, the inspector may refuse entry into the United States of the entire shipment (merchandise and solid wood packing material). Any shipment refused entry will be handled in accordance with the procedures in paragraph (g)(6) of this section. The importer shall be responsible for all costs associated with inspection, separation, and destruction or reexportation of any solid wood packing material, including costs of the services of an inspector to monitor such activities in accordance with § 354.3(j) of this chapter. Any such costs may be charged to the importer's customs bond.

(i) *Special provisions for air overnight couriers and air express delivery companies.* Overnight couriers and express delivery companies must

present to an APHIS inspector at the port of first arrival, at or prior to the time of entry, one or more certificates for each arriving aircraft that carries packages employing solid wood packing material. The company may present one certificate in cases where the company has arranged treatment of all solid wood packing material on the flight, and may present multiple certificates in cases where packages with solid wood packing material were accepted for delivery by the company from multiple customers, each of whom arranged for treatment and certification of their respective packages. The certificates must be signed by an official of the applicable government agency authorized by the government of the Peoples Republic of China or the Hong Kong Special Administrative Region, and must state that the solid wood packing material, prior to export from the Peoples Republic of China including Hong Kong, has been heat treated, fumigated and aerated, or treated with preservatives using a treatment schedule contained in § 319.40–7 or in the Plant Protection and Quarantine Treatment Manual. If the aircraft contains no packages that employ solid wood packing material, or contains both packages that do and do not employ solid wood packing material, the overnight courier or express delivery company must also present to an APHIS inspector at the port of first arrival, at or prior to the time of entry, one or more exporter statements stating that the packages on the aircraft not covered by a certificate contain no solid wood packing material.

(j) *Customs entry or entry summary filing requirements.* By instruction, the United States Customs Service will inform importers of any information that may be required on entry or entry summary documentation under the Automated Broker Interface or other entry filing systems, electronic or otherwise, with regard to recording the existence of certificates, importer statements affirming that the importer has on file at his or her office any certificate required, and exporter statements that there is no solid wood packing material in a shipment.

(k) *Liability under the Customs import bond and international carrier bond.* Any failure of an importer to comply with any of the provisions regarding the maintenance or presentation of records or information as prescribed in this subpart may result in liability under the Customs basic import bond. Any failure of a carrier to comply with any of the provisions regarding the maintenance or presentation of records or information as prescribed in this subpart may result in liability under the international carrier bond.

* * * * *

Effective Date Note: At 69 FR 55733, Sept. 16, 2004, § 319.40–5 was amended in paragraphs (b)(1)(i)(C), (b)(2), and (b)(2)(i), by removing the words ''solid wood packing materials'' each time they occur and adding the words ''regulated wood packaging material'' in their place, and removing paragraphs (g) through (k), effective Sept. 16, 2005.

■ 4. In § 319.40–10, footnote 6, the words ''without meeting the requirements of this subpart'' are removed and the words ''without a complete certificate or exporter statement'' are reinstated in its place, and an effective date note is added to the end of the section to read as follows:

§ 319.40–10 Costs and charges.

* * * * *

Effective Date Note: At 69 FR 55733, Sept. 16, 2004, § 319.40–10 was amended in footnote 6, the words ''without a complete certificate or exporter statement'' are removed and the words ''without meeting the requirements of this subpart'' are added in their place, effective Sept. 16, 2005.

[FR Doc. 05–55505 Filed 4–29–05; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 05–009–1]

Brucellosis in Swine; Add Florida to List of Validated Brucellosis-Free States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of swine by adding Florida to the list of validated brucellosis-free States. We have determined that Florida meets the criteria for classification as a validated brucellosis-free State. This action relieves certain restrictions on the interstate movement of breeding swine from Florida.

DATES: This interim rule is effective on May 2, 2005. We will consider all comments that we receive on or before July 1, 2005.

ADDRESSES: You may submit comments by any of the following methods:

- *Edocket:* Go to *http://www.epa.gov/feddocket* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the ''View Open APHIS Dockets'' link to locate this document.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. 05–009–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 05–009–1.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for locating this docket and submitting comments.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: You may view APHIS documents published in the **Federal Register** and related information on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Dr. John Korslund, Staff Veterinarian (Swine Health), Eradication and Surveillance Team, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–5914.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease caused by bacteria of the genus *Brucella.* The disease mainly affects cattle, bison, and swine, but goats, sheep, horses, and even humans are susceptible. In its principal animal hosts, it causes loss of young through spontaneous abortion or birth of weak offspring, reduced milk production, and infertility. There is no economically feasible treatment for brucellosis in livestock. In humans, brucellosis initially causes flu-like symptoms, but the disease may develop into a variety of chronic conditions, including arthritis. Humans can be treated for brucellosis with antibiotics.

The brucellosis regulations in 9 CFR part 78 (referred to below as the regulations) contain specific provisions for cattle, bison, and swine. Under the regulations, States, herds, and individual animals are classified according to their brucellosis status. Interstate movement requirements for animals are based upon the disease status of the individual animals or the herd or State from which the animal originates.

We are amending § 78.43 of the regulations, which lists validated swine brucellosis-free States, to include Florida. A State may apply for validated brucellosis-free status when:

- Any herd found to have swine brucellosis during the 2-year qualification period preceding the application has been depopulated. More than one finding of a swine brucellosis-infected herd during the qualification period disqualifies the State from validation as brucellosis-free; and
- During the 2-year qualification period, the State has completed surveillance, annually, by either complete herd testing, market swine testing, or statistical analysis.

Breeding swine originating from a validated brucellosis-free State or herd may be moved interstate without having been tested with an official test for brucellosis within 30 days prior to interstate movement, which would otherwise be required.

After reviewing the State's brucellosis program records, we have concluded that Florida meets the criteria for classification as a validated brucellosis-free State. Therefore, we are adding Florida to the list of validated brucellosis-free States in § 78.43. This action relieves certain restrictions on the interstate movement of breeding swine from Florida.

Immediate Action

Immediate action is warranted to remove restrictions that are no longer necessary on the interstate movement of swine from Florida. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

We are amending the brucellosis regulations concerning the interstate movement of swine by adding Florida to the list of validated brucellosis-free States. As of January 1, 2005, 48 States, plus Puerto Rico and the U.S. Virgin Islands, were classified as validated brucellosis-free States. The State of Florida has been classified as a Stage II State, but now meets the requirements for being listed as Stage III (validated brucellosis-free) State.

This interim rule grants swine producers in Florida validated brucellosis-free status. This rule will benefit breeding stock owners in Florida who will no longer have to incur the cost of brucellosis testing on sows and other breeding stock. The estimated cost of brucellosis testing ranges from $7.50 to $15 per animal, which includes veterinary and handling fees. As of October 2004, the national average value of a sow was $207 per head. Thus, cost savings associated with suspending brucellosis testing for breeding swine to be moved interstate from Florida is roughly between 3.6 and 7.2 percent of the value of the animal.

According to the 2002 Census of Agriculture, there were 887 farms in Florida with hogs or pigs used or to be used for breeding, with an inventory of 7,799 animals. Of those farms, 830 had inventories of 1–24 animals, and another 41 had inventories of 25–49 animals. The small business size standards for hog and pig operations, as identified by the Small Business Administration, is $750,000 or less in annual receipts. Given that criterion, it is reasonable to assume that over 90 percent of farms with breeding swine in Florida are small entities.

Florida has been classified as a Stage II State requiring annual testing of the breeding stock in its swine operations. However, Florida has met the requirements to be listed as a validated brucellosis-free State. The change in the status of Florida would lead to cost savings to the breeding segment of swine production, but we do not expect the cost savings will have a significant economic impact on affected small entity producers. This rule will not result in any additional costs for affected small entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (*See* 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 9 CFR part 78 as follows:

PART 78—BRUCELLOSIS

■ 1. The authority citation for part 78 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

§ 78.43 [Amended]

■ 2. Section 78.43 is amended by adding, in alphabetical order, the word, ''Florida.''

Done in Washington, DC, this 26th day of April 2005.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–8660 Filed 4–29–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20449; Airspace Docket No. 05–AAL–06]

Revision of Class E Airspace; Nome, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This action revises Class E airspace at Nome, AK to provide adequate controlled airspace to contain aircraft executing new Standard Instrument Approach Procedures (SIAP). This Rule results in additional Class E surface area and Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Nome, AK.

EFFECTIVE DATE: 0901 UTC, July 7, 2005.

FOR FURTHER INFORMATION CONTACT: Jesse Patterson, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Jesse.ctr.Patterson@faa.gov.* Internet address: *http://www.alaska.faa.gov/at .*

SUPPLEMENTARY INFORMATION:

History

On Friday, March 11, 2005, the FAA proposed to revise part 71 of the Federal Aviation Regulations (14 CFR part 71) to create additional Class E surface area and Class E airspace upward from 700 ft. and 1,200 ft. above the surface at Nome, AK (70 FR 12162). The action was proposed in order to add Class E airspace sufficient in size to contain aircraft while executing new Standard Instrument Approach Procedures for the Nome Airport. The new approaches are (1) Area Navigation-Global Positioning System (RNAV GPS) Runway (RWY) 3, original; (2) RNAV (GPS) RWY 10, original; (3) RNAV (GPS) RWY 28, original; and (4) Non-directional Beacon (NDB)-A, original. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received, thus, the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as surface areas are published in paragraph 6002 of FAA Order 7400.9M, *Airspace Designations and Reporting Points,* dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be revised subsequently in the Order.

The Rule

This revision to 14 CFR part 71 revises Class E airspace at Nome, Alaska. This additional Class E airspace was created to accommodate aircraft executing new SIAPs and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for IFR operations at Nome Airport, Nome, Alaska.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing new and existing instrument procedures for the Nome Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71— DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9M, *Airspace Designations and Reporting Points,* dated August 30, 2004, and effective September 16, 2004, is amended as follows:

* * * * *

Paragraph 6002 Class E airspace designated as surface area.

* * * * *

AAL AK E2 Nome, AK [Revised]

Nome Airport, AK
(Lat. 64°30′44″ N., long. 165°26′43″ W.)

Within a 4.1-mile radius of the Nome Airport and within 3.4 miles each side of the Nome Airport 106° bearing extending from the 4.1-mile radius to 13.2 miles east of the airport, and within 3.4 miles each side of the Nome Airport 288° bearing extending from the 4.1-mile radius to 6 miles west of the airport, and within 3.5 miles each side of the Nome Airport 229° bearing extending from the 4.1-mile radius to 6 miles west of the airport. This Class E airspace area is effective during the specific dates and time established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Nome, AK [Revised]

Nome Airport, AK
(Lat. 64°30′44″ N., long. 165°26′43″ W.)
Nome VORTAC
(Lat. 64°29′06″ N., long. 165°15′11″ W.)

That airspace extending upward from 700 feet above the surface within an 25-mile radius of the Nome Airport excluding that airspace beyond 12-miles of the shoreline; and that airspace extending upward from 1,200 feet above the surface within an 77.4-mile radius of the Nome VORTAC, excluding that airspace beyond 12-miles of the shoreline.

* * * * *

Issued in Anchorage, AK, on April 25, 2005.

Anthony M. Wylie,

Acting Area Director, Alaska Flight Services Operations.

[FR Doc. 05–8723 Filed 4–29–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1300, 1301, 1304, 1305, and 1307

[Docket No. DEA–108F]

RIN 1117–AA19

Definition and Registration of Reverse Distributors

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Final rule.

SUMMARY: DEA is finalizing, without change, the interim rule with Request for Comment published in the **Federal Register** July 11, 2003 at 68 FR 41222. The interim final rule amended Title 21, Code of Federal Regulations, parts 1300, 1301, 1304, 1305 and 1307 to define the term ''reverse distributor'' and establish a new category of registration for persons handling controlled substances. The amendments established the regulatory standards under which reverse distributors may handle unwanted, unusable, or outdated controlled substances acquired from another DEA registrant. These standards ensure the proper documentation and recordkeeping necessary to prevent diversion of such controlled substances to illegal purposes. This final rule makes these changes permanent.

DATES: *Effective Date:* May 2, 2005.

FOR FURTHER INFORMATION CONTACT: Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537. Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION:

Overview of and Benefits of the Interim Final Rule

On July 11, 2003 (68 FR 41222), the Drug Enforcement Administration (DEA) published an interim final rule to define the term ''reverse distributor'' and to establish a new category of registration for persons handling controlled substances. The interim final rule mostly codified existing practices that reverse distributors follow under memoranda of understanding (MOUs) with DEA. This approach is consistent with the comments received on the Notice of Proposed Rulemaking (NPRM) (60 FR 43732, August 23, 1995) that stated that reverse distributors would be significantly and adversely impacted if, as was proposed, they were classified as manufacturers. In recognizing this activity as a separate registration category of distributors, DEA believes the entire controlled substances industry will benefit. Reverse distributors previously operating under MOUs are becoming fully recognized registrants under DEA rules. Thousands of other registrants who need to dispose of unneeded or outdated inventories are now able to turn to a fully registered group of distributors. Furthermore, by essentially codifying existing practices these benefits are being achieved with minimal need for change or for disruption to the affected industry.

Because of the length of time since the NPRM was published and the evolving nature of this industry, DEA used an interim final rule to give an additional opportunity for comment. DEA has considered the comments received on the appropriateness and the practical application of these rules to current industry practice. The comments are discussed below.

Background

The overall goal of the Controlled Substances Act (CSA) and of DEA's regulations in Title 21, Code of Federal Regulations (CFR), Parts 1300–1316 is to provide a closed distribution system so that a controlled substance is at all times under the legal control of a person registered, or specifically exempted from registration, by the Drug Enforcement Administration until it reaches the ultimate user or is destroyed. DEA achieves this goal by registering manufacturers, distributors, importers, exporters, and dispensers of controlled substances as well as analytical laboratories and researchers. Thus, any movement of controlled substances between these registered persons is covered by DEA regulations, which ensure that all controlled substances are accounted for from their creation until their dispensing or destruction.

When a controlled substance has become outdated or otherwise unusable, the registrant who possesses the substance must dispose of it. However, over the past decade, environmental concerns and regulatory changes have caused drug manufacturers and government agencies (including DEA and State authorities) to become increasingly reluctant to be involved in the disposal process. Thus, some disposal options are no longer available.

Nonetheless, disposal of controlled substances can occur in several ways:

1. The distributor or dispenser can return the controlled substance to the pharmaceutical manufacturer who, as a service to its customers, accepts returns of outdated/damaged controlled substances. Distributors, dispensers, and manufacturers are all registered with DEA.

2. The distributor, dispenser, or manufacturer can itself dispose of the controlled substances under the procedures outlined in 21 CFR 1307.21.

Under 21 CFR 1307.21, any person may request permission to dispose of controlled substances without the benefit of a DEA or State witness. In many cases, blanket permission for disposal of controlled substances is granted to registrants who have an ongoing need to dispose of unwanted controlled substances. DEA must authorize the disposal in writing and may require that a set schedule be established. Other registrants are granted disposal authority on a case-by-case basis. DEA normally requires that the registrant provide two designated responsible individuals to accompany the drugs to the disposal site and witness the destruction. This achieves DEA's goal of ensuring the controlled substances are rendered nonrecoverable. Disposal under the authority of 21 CFR 1307.21 maintains the closed distribution system because the controlled substances remain under the legal control of a registrant at all times.

3. The distributor, dispenser, or manufacturer can distribute the controlled substances to a reverse distributor to take control of the controlled substances for the purpose of returning them to the manufacturer or, if necessary, disposing of them.

For many years, DEA opposed granting DEA registrations to firms solely or primarily engaged in the disposal (whether the transportation portion, actual disposal, or both) of controlled substances because they were not considered an essential link in the closed distribution system that the Controlled Substances Act established to control the flow of drugs from the manufacturer to the ultimate user. In recent years, however, increasingly stringent requirements imposed by the U.S. Environmental Protection Agency (EPA) resulted in fewer and fewer approved disposal facilities. As a result, a new type of business developed that collects controlled substances from registrants and either returns them to the manufacturer or arranges for their disposal. The businesses performing this middleman service refer to

themselves as ''reverse distributors'' or ''returns processors.''

The interim final rule dealt only with the distribution of controlled substances to reverse distributors. The first two categories—direct returns of controlled substances by distributors or dispensers to manufacturers, and disposals by the distributor, manufacturer or dispenser—are already covered by the existing rules. Only the third category, *i.e.*, persons who distribute controlled substances to reverse distributors, was not expressly covered by the regulations, although DEA regulated reverse distributors for many years under the terms of Memoranda of Understanding (MOUs), through which they were granted DEA registrations as distributors. The interim final rule eliminated the need for MOUs. However, since the interim final rule essentially codified existing DEA policies and practices, it did not impose any significant additional burden on reverse distributors.

On August 23, 1995, DEA issued a Notice of Proposed Rulemaking (NPRM) (60 FR 43732) that proposed regulatory standards governing disposers of controlled substances. DEA proposed to accomplish this by amending its regulations to define the term ''Disposer'' to account for this middleman function in the regulations and establish a new category of manufacturer registration under which persons performing this function would be registered. DEA also proposed amending the regulations to exempt disposers from the quota requirements; to identify the records and reports required of disposers; and to establish order form procedures for disposers. Finally, DEA proposed amendments to a number of gender-specific sections to make them gender neutral.

DEA originally based its decision to define the persons performing the reverse distribution function as disposers on the definition of ''manufacturer.'' In 21 CFR 1300.01(b)(27), DEA defines manufacture in part as ''the producing, preparation, propagation, compounding, or processing of a drug or other substance * * *.'' The section further defines a manufacturer as ''a person who manufactures a drug or other substance * * *.'' In the proposed rule, DEA stated that by its nature, a disposer processes a drug or other substance. Therefore, DEA proposed to place disposers within the definition of manufacturer, under a new disposer subcategory. Commenters to the proposed rule objected to being categorized as disposers and manufacturers for the reasons explained in the Interim Final Rule preamble. Therefore, in the interim final rule, DEA established a definition for ''reverse distributor'' and established a new category of registration as reverse distributors.

Even before the interim final rule was published, DEA issued certificates of registration as distributors to persons performing the reverse distribution function. Since reverse distributors were not specifically identified in the regulations, DEA entered into a Memorandum of Understanding (MOU) with the person performing the reverse distribution function. DEA did not experience any difficulties in treating reverse distributors as distributors for purposes of registration and other requirements. Any reverse distributor that was registered under the terms of a MOU must be reregistered as a reverse distributor under the terms of the interim final rule in the next renewal cycle and will be specifically identified in DEA's records as a reverse distributor. Persons currently conducting reverse distribution operations must notify DEA by no later than the time of renewal of their registration so that they may be properly identified as reverse distributors in DEA's records.

The requirements for a reverse distributor in the interim final rule are similar to those imposed on all registrants at the distributor level. They include, but are not necessarily limited to:

- *Security:* All applicants must install, at the registered premises, physical security controls that meet the existing standards of 21 CFR 1301.71 and 1301.72.
- *Recordkeeping:* In accordance with 21 CFR part 1304, periodic inventories and records of all controlled substances received, destroyed, or returned to the original, registered manufacturers must be maintained for two years. The registrant must adequately describe the receipt and accountability methods and records to be employed to ensure the establishment of effective controls against diversion.
- *Order Forms* must be completed for all Schedule I and II items prior to their transfer to the reverse distributor. Only after the order form has been received by the reverse distributor may the controlled substances be transferred.
- *Reports* are required under the Automation of Reports and Consolidated Orders System (ARCOS), as specified in 21 CFR 1304.33.

In addition to DEA requirements, reverse distribution applicants must obtain the appropriate State and Federal approvals for controlled substances and disposal activities.

Public Comments on the Interim Final Rule

Five comments were received regarding the interim final rule. Commenters included reverse distributors, waste management companies, and a distributor's association. The following discussion summarizes the issues raised by commenters and DEA's response to these issues.

Reverse Distributor Receipt of Controlled Substances From Non-Registrants.

Three commenters addressed the issue of whether reverse distributors should be allowed to receive controlled substances from non-registrants.

One commenter believed that DEA should create uniform regulations for the management and destruction of controlled substances that a reverse distributor receives from a non-registrant. The commenter asserted that the procedure recommended in the preamble to the interim final rule could lead to inconsistencies because procedures for such transactions would be developed with various DEA offices.

Alternatively, the commenter suggested that a non-registrant and a reverse distributor be allowed to: ''(1) create a destruction plan for a waste controlled substance and (2) communicate that plan in writing to the local DEA office, the non-registrant and the reverse distributor can implement that destruction plan if no objection is received from the DEA office within ten business days of the submittal.'' The commenter also suggested a procedure to be followed if the DEA office did object.

A second commenter stated that the procedure for dealing with this issue described in the interim final rule ''is fundamentally flawed in the protection of both the public and our environment.'' The commenter stated that its studies have shown that a majority of long term care facilities and nursing homes are improperly accounting for and disposing of their controlled substances, indicating that sewage is a primary means of disposal and that EPA has concluded that improper disposal results in contamination. The commenter proposed an amendment to the interim final rule that would allow exceptions for reverse distributors. It stated that its proposal ''allows for Reverse Distributors to account and dispose of controlled substances from non-registrants so long as the Return

Distributor obtains written approval from the DEA if certain conditions are met.'' The commenter recommended that the conditions ''would consist of an internal system of accountability, Standard Operational Procedures, and archiving of records for two (2) years.''

While specifically addressing the definition of ''reverse distributor,'' the third commenter discussed the issue of a reverse distributor receiving controlled substances from a non-registrant. The commenter stated that the definition ''will have significant, negative environmental concerns and increase the opportunity for controlled substances to be diverted.''

The overall thrust of the commenter's comments and of its recommended changes related to the problem of a reverse distributor receiving controlled substances from a non-registrant. The commenter requested that the reverse distributor definition be modified to allow reverse distributors to receive controlled substances not only from another DEA registrant, but also from any person lawfully in possession of a controlled substance. The commenter also requested that § 1307.12 be modified to allow this. According to the commenter:

> The requested change will allow a reverse distributor to provide proper disposal and documentation of controlled substances for patient medications from legal entities such as dispensers and Long Term Care Facilities which is currently the accepted practice by and in many States as a standard option of destruction with the approval of the DEA (see attached California Department of Health Services March 5, 1999, letter to California Long Term Care Facilities {and related patient-care entities} Item #3).

DEA Response: DEA addressed the issue of whether reverse distributors can receive controlled substances from non-registrants in the preamble to the interim final rule (68 FR 41226) and on several other occasions. The issue arises because most long term care facilities are not DEA registrants. In a notice document published in 2001 (66 FR 20833, April 25, 2001) and in a follow up notice of proposed rulemaking published in 2003 (68 FR 62255, November 3, 2003), DEA proposed to address the issue under the title, ''Preventing the Accumulation of Surplus Controlled Substances at Long Term Care Facilities'' (LTCFs).

DEA's position is that because LTCFs are not registrants they may not transfer controlled substances to either the pharmacy from which they came or to a reverse distributor, or any other registrant for disposal. The LTCF must dispose of the excess controlled substances directly. DEA's position is based on the fact that controlled substances in the possession of a LTCF are no longer part of the closed system of distribution and are no longer subject to DEA's system of corresponding accountability. As stated in the interim final rule preamble, ''In cases where long term care facilities must dispose of controlled substances, they should follow the guidelines within their State for disposing of the drugs and maintain appropriate documentation of the disposal.''

DEA's position has not changed although, as noted, DEA has issued an NPRM that would attempt to address the problem by allowing registered pharmacies to operate automated dispensing systems at LTCFs; these systems allow single dosage dispensing, reducing the amount of drugs that become waste.

Definitions

One commenter supported the new definition as written.

A second commenter suggested adding a new definition of ''employee'' to make clear which persons are allowed to witness a destruction event under new language in 21 CFR 1304.11(e). The commenter believed that a definition is necessary because of what it described as past liberal interpretation within the industry that has led to the use of ''destruction plant personnel and other people that are not gainfully employed by the reverse distributor registrant.''

DEA Response: DEA does not agree that a definition of ''employee'' is needed. DEA is using the word as defined in a typical dictionary which means that persons who are not actually employed by the registrant reverse distributor would not be eligible to perform the witness function during the destruction.

Registration Process

While supporting the reverse distributor registration process as a whole, one commenter expressed some concern about companies doing business as both types of distributors without fully disclosing the extent of their return or disposal business when partnering with another dispensing distributor. The commenter stated that if its interpretation is correct, namely that a company involved in both distributing and reverse distributing will need to register independently as a distributor and reverse distributor, that DEA should add clarifying language to the rule.

A second commenter stated that public notice should exist, just as it does for the importers, exporters, and manufacturers.

DEA Response: Under current regulations, any registrant is allowed to distribute (*i.e.,* return) a controlled substance to the distributor or manufacturer from which the registrant originally obtained that controlled substance without needing a separate registration as a distributor. This type of transaction is considered to be a normal business transaction. However, any registrant that obtains returns from someone they did not distribute to for the purpose of returning the controlled substances to the manufacturer or for disposal must obtain a separate registration as a reverse distributor.

DEA intends to use the same registration process for reverse distributors as it does for distributors because of the similarities between distribution and reverse distribution, rather than the process used for manufacturers, importers, and exporters. Therefore, DEA does not agree that a public notice requirement is appropriate for reverse distributors.

Reporting and Recordkeeping; ARCOS Reporting

One commenter recommended that the reverse distributor reporting requirement be limited to Schedules I and II and that reverse distributors not be required to report any controlled substance received for destruction that is outside the DEA closed system of distribution.

A second commenter recommended adding ''an ARCOS transaction code that would accurately document Destruction in lieu of a Sale.'' The commenter also noted that ''a DEA Form requires that in order for the substance to be replaced, the manufacturer must now ask for Additional, quota (sic) instead of Replacement Quota.'' The commenter further suggested that recordkeeping should be augmented to require National Drug Code (NDC) numbers, as NDC numbers are required for ARCOS and other recordkeeping.

The commenter also expressed concern that using a reverse distributor could have impact on a manufacturer's ability to obtain more quota. The commenter requested that DEA clarify that there will be no impediments in obtaining replacement or additional quotas when using the services of a Reverse Distributor and when actual evidence of proper destruction is provided.

DEA Response: DEA agrees that distribution by a manufacturer to a reverse distributor for destruction could be recorded as a disposal and not a sale. However, DEA also needs complete ARCOS records of all transactions by reverse distributors so no change is

being made in the reporting requirements.

Regarding replacement quotas needed by manufacturers of controlled substances, DEA will evaluate such needs based on the registrant's authorized procurement quota and information submitted to DEA regarding destruction of a manufacturer's controlled substances by a reverse distributor. To evaluate and process requests for replacement quotas, DEA requires the following documentation regarding destruction of controlled substances from the registered manufacturer requesting the replacement quota:

(1) A completed copy of the DEA Form 222 ''U.S. Official Order Form for Schedule I and II Controlled Substances'' showing the transfer of controlled substances from the registered manufacturer to a reverse distributor.

(2) A copy of the completed DEA Form 41 ''Registrant's Inventory of Drugs Surrendered'' with the corresponding destroyed by and witness by signatures. The reverse distributor provides the DEA Form 41 to the registered manufacturer documenting the surrender and disposal of the controlled substances.

Replacement quota does not count against a registrant's procurement quota; however these materials must be acquired in the same calendar year the replacement quota is granted.

Disposal and Destruction of Controlled Substances

One commenter stated that DEA should require registrants to use a Reverse Distributor to destroy controlled substances because registrants who dispose of their own controlled substances have the ability to influence their destruction records and because there is not an arm's length relationship. The commenter asserted that ''Validation exists at every other step in the closed-loop system DEA has established, except for this very step.''

The commenter also believed that listed chemicals should require the same recordkeeping and destruction requirements as controlled substances since DEA has indicated that listed chemicals have become an increased source of diversion into illicit markets.

Another commenter stated that DEA's use of the terms ''dispose, disposal, disposer'' and ''destruction'' appears to be interchangeable throughout the preamble and that this could inadvertently lead to mishandling of controlled substances. The commenter urged DEA to clarify that ''only those disposal methods that permanently destroy the controlled substance are allowable forms of destruction.'' The commenter stated that all technologies other than incineration should require approval of DEA's Drug and Chemical Evaluation Section.

The commenter also believed that DEA should make it clear that at no point during the loading, unloading, or destruction process should the controlled substances be left unattended by either of the two Registrant employees.

DEA Response: In general, the intent of the final rule is to codify the concept of a reverse distributor with minimal change from standard business practices of other distributors and with minimal change from practices under the MOUs that have worked well for many years. DEA does not have any justification for mandating delivery of controlled substances to reverse distributors whether for return to a manufacturer or for destruction.

Listed chemicals are subject to a totally different set of requirements and any changes to those requirements would be outside of the scope of this rulemaking.

With respect to the ''permanent destruction'' of controlled substances, DEA believes that destruction under the terms of current 21 CFR 1307.21 is consistent with the goals stated by the commenters. While DEA does not require incineration, other methods designed to render a controlled substance unusable, while acceptable, may trigger a more intense review by DEA or subject the disposer to the requirements of other agencies, such as EPA.

Summary

In summary, the registration and other requirements for reverse distributors under the interim final rule are the same as those currently imposed on distributors and the same as previously imposed on reverse distributors under MOUs, *i.e.,* registration requirements under existing 21 CFR 1301.13; security requirements under existing 21 CFR 1301.71 and 1301.72; recordkeeping requirements under existing 21 CFR 1304.22; reporting requirements under existing 21 CFR 1304.33 (ARCOS reports); and order form requirements under existing 21 CFR 1305.08 (Persons entitled to fill order forms). In some cases these rules have been modified to apply specifically to reverse distributors, including inventory requirements under existing 21 CFR 1304.11. In addition, DEA amended 21 CFR 1307.11 and 1307.12 to clarify that registrants can transfer (''distribute'') controlled substances to a reverse distributor, even if the registrant is not registered as a distributor.

The closed system of distribution established under the CSA for controlled substances relies on certain fundamental principles, including registration, security, and accountability (*i.e.,* inventories, recordkeeping, and reporting), to achieve a system of controls that allows for legitimate commerce while minimizing the potential for diversion. The fact that reverse distributors engage in a unique activity within the controlled substances chain and are faced with certain challenges that other registrants do not normally encounter does not override the fundamental principles of DEA's controls. Reverse distributors must register, provide security, and maintain accurate records for all controlled substances in their possession. However, the regulatory structure does provide some flexibility and, where possible, DEA has made adjustments to address some of the problems the industry has encountered, including use of a separate category of registration and application of the inventory requirements for dispensers and researchers.

Regulatory Certifications

Administrative Procedure Act

An agency may find good cause to exempt a rule from certain provisions of the Administrative Procedure Act (5 U.S.C. 553), including making this rule effective upon the date of publication. DEA finds good cause to make this rule effective upon publication, as this Final Rule merely confirms existing regulatory requirements implemented as part of the Interim Rule published July 11, 2003 at 68 FR 41222.

Regulatory Flexibility Act

The Deputy Assistant Administrator hereby certifies that this rulemaking has been drafted in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities. Therefore, no regulatory flexibility analysis is required. This rule finalizes, without change, an Interim Final Rule which mostly codified existing practices that reverse distributors followed under memoranda of understanding (MOUs) with DEA. DEA drafted the interim rule partly in response to concerns by reverse distributors that they would be significantly and adversely impacted if they were classified as manufacturers. In recognizing reverse distributors as a separate registration category of

distributors, DEA believes the entire controlled substances industry will benefit. Reverse distributors previously operating under MOUs are becoming fully recognized registrants under DEA rules. Thousands of other registrants who need to dispose of unneeded or outdated inventories are now able to turn to a fully registered group of distributors. Furthermore, by essentially codifying existing practices these benefits are being achieved with minimal need for change or for disruption to the affected industry.

Executive Order 12866

The Deputy Assistant Administrator further certifies that this rulemaking has been drafted in accordance with the principles of Executive Order 12866 Section 1(b). DEA has determined that this is a significant regulatory action. Therefore, this action has been reviewed by the Office of Management and Budget.

Executive Order 12988

The Deputy Assistant Administrator further certifies that this regulation meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Executive Order 13132

This rulemaking does not preempt or modify any provision of State law; nor does it impose enforcement responsibilities on any State; nor does it diminish the power of any State to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $115,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

The Interim Final Rule amending Parts 1300, 1301, 1304, 1305, and 1307 of Title 21, Code of Federal Regulations, which was published in the **Federal Register** on July 11, 2003 at 68 FR 41222, is hereby adopted as a Final Rule without change.

Dated: April 26, 2005.

William J. Walker,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 05–8692 Filed 4–29–05; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AM11

Elimination of Copayment for Smoking Cessation Counseling

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This interim final rule amends the Department of Veterans Affairs (VA) medical regulations concerning copayments for inpatient hospital care and outpatient medical care. This rule designates smoking cessation counseling (individual and group sessions) as a service that is not subject to copayment requirements. The intended effect of this interim final rule is to increase participation in smoking cessation counseling by removing the copayment barrier.

DATES: Effective Date: May 2, 2005. Comments must be received on or before July 1, 2005.

ADDRESSES: Written comments may be submitted by: Mail or hand-delivery to Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026; e-mail to *VAregulations@mail.va.gov;* or, through *http://www.Regulations.gov.* Comments should indicate that they are submitted in response to ''RIN *2900–AM11.*'' All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment.

FOR FURTHER INFORMATION CONTACT: Eileen P. Downey, Program Analyst, Policy Development, Chief Business Office (16), (202) 254–0347 or Dr. Kim Hamlet-Berry, Director, Public Health National Prevention Program, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 273–8929. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: Smoking is the leading preventable cause of morbidity and mortality in the United States, with a 43 percent higher prevalence of smoking among veterans than in the comparable general population, based on age- and gender-comparisons. Many veterans, particularly WWII and Korean War era veterans began smoking in the military as cigarettes were routinely provided as part of K-rations. Veterans who receive their health care in the VA represent the subgroups that have the highest prevalence of smoking, notably individuals from lower socioeconomic levels, substance abuse populations, and individuals with psychiatric disorders. The prevalence of smoking has continued to be very high among these groups despite substantial decreases in smoking in the general population.

The prevalence of smoking among VA's population is costly. In 2003, the Veterans Health Administration (VHA) conducted an analysis of the costs and benefits of the current copayment for smoking cessation. The analysis revealed that smoking-related illnesses account for up to 23.81 percent of total health care costs in VA. Treatment of smoking and prevention of smoking-related illnesses is likely to continue to be a public health priority for VA in the future. The 2003 Department of Defense Survey of health-related behaviors among active military personnel noted the first increase in rates of smoking since 1980, with rates at or approaching the prevalence of smoking in VA populations.

Smoking cessation is effective and has been cited in medical literature as the gold standard for cost-effectiveness among medical/preventive interventions, second only to routine immunizations of children. Significant medical literature suggests the copayments can serve as a barrier to accessing counseling for smoking cessation. Both the 2000 U.S. Public Health Service Guidelines on Smoking Cessation and the Centers for Disease Control and Prevention Task Force on Community Preventive Services strongly recommend reduction or elimination of out-of-pocket expenses for smoking cessation services.

Given the clinical challenges facing the VA population, the cost of smoking-related illness, the effectiveness of

smoking cessation counseling, and the current relatively low participation levels in VA smoking cessation services, VA seeks to reduce barriers to the utilization of evidence-based smoking cessation counseling services. This interim final rule will advance that goal by eliminating the copayment requirement for smoking cessation counseling.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553, we find that we have good cause to dispense with advance notice and comment on this rule because of the urgent need for its implementation and the unlikelihood, given the fact that it grants an exemption from the copayment requirement, of encountering opposition from the public. The practice of smoking can lead to extremely debilitating disease and, possibly, death. In the time required to subject this rule to traditional notice and comment procedures, individuals who smoke incur a risk of contracting or exacerbating disease, or of dying, because they might be deterred by reason of the copayment requirement from participating in the program. Accordingly, we find that these significant health concerns render delay for notice and comment procedures impracticable and contrary to the public interest. Further, because this rule is beneficial to the public and is unlikely to generate adverse comments, we find that prior notice and opportunity to comment are unnecessary. Because of the need to reduce barriers to participating in combating this public health emergency, because the rule grants an exemption or relieves a restriction, and for the above reasons, we also find that it is unnecessary to delay the effective date of the rule by 30 days.

Regulatory Flexibility Act

The Secretary hereby certifies that this interim final rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The provisions of this interim final rule would not directly affect any small entities. Only individuals could be directly affected. Accordingly, pursuant to 5 U.S.C. 605(b), this interim final rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget pursuant to Executive Order 12866.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers for the programs affected by this document are 64.005, 64.007, 64.008, 64.009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, and 64.024.

Paperwork Reduction Act

This document does not contain new provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This interim final rule will have no such effect on State, local, or tribal governments, or the private sector.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: December 17, 2004.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set out in the preamble, 38 CFR Part 17 is amended as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

■ 2. Section 17.108 is amended by:

■ A. In paragraph (e) (11), removing ''and'' from the end of the paragraph.

■ B. Redesignating paragraph (e) (12) as (e) (13).

■ C. Adding new paragraph (e) (12).

The addition reads as follows:

§ 17.108 Copayments for inpatient hospital care and outpatient medical care.

* * * * *

(e) * * *

(12) Smoking cessation counseling (individual and group); and

* * * * *

[FR Doc. 05–8729 Filed 4–29–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900–AL54

Loan Guaranty: Hybrid Adjustable Rate Mortgages

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is affirming as final an amendment to its loan guaranty regulations implementing section 303 of the Veterans Benefits Act of 2002. The amendment incorporates into the regulations a new authority for hybrid adjustable rate mortgages. This allows VA to guarantee loans with interest rates that remain fixed for a period of not less than the first three years of the loan, after which the rate can be adjusted annually.

DATES: Effective Date: This rule is effective on May 2, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Robert D. Finneran, Assistant Director for Policy and Valuation (262), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, Washington, DC 20420, (202) 273–7368.

SUPPLEMENTARY INFORMATION: On October 9, 2003, VA published in the **Federal Register** (68 FR 58293) proposed regulations to implement sections 303 and 307 of Public Law 107–330. Under this proposal, 38 CFR 36.4311 would be amended to provide authority for hybrid adjustable rate mortgages. Public Law 107–330 authorized VA to guarantee loans with interest rates that remain fixed for a period of not less than the first three years of the loan, after which the rate can be adjusted annually. Under the previous authority, the first adjustment on VA-guaranteed adjustable rate mortgage loans had to occur no sooner than 12 months nor later than 18 months from the date of the borrower's first mortgage payment. Please refer to the October 9, 2003, **Federal Register** for a complete discussion of this proposal.

Section 307 of Pub. L. 107–330 also increased the fee payable to VA by a person assuming a VA guaranteed loan from .50 percent to 1.00 percent of the loan amount, for a period beginning

December 13, 2002, and ending September 30, 2003. Since this period has now expired, the proposed changes to 38 CFR 36.4312 are no longer necessary to reflect the increase.

The proposed rule provided for a 60-day comment period that ended November 10, 2003. We received three comments. The three commenters generally support the proposal for VA guaranteed hybrid ARM loans. Two believe the current ceiling on the annual adjustment cap of one percent is not in line with comparable conventional loans with a fixed-rate period of five or more years. They believe legislation should be enacted to remove the one percent annual adjustment cap limitation for loans with a fixed-rate period of five years or more. One requested that if such legislation is enacted VA implement the change as quickly as possible. This suggestion has been noted and will be considered in the event of future legislation.

The third commenter requested that VA clarify language in the proposal regarding the increase in the fee payable to VA by a person assuming a VA guaranteed loan. The increase was effective for the period beginning December 13, 2002, and ending September 30, 2003, and was being carried out under the authority of the statute. As the effective period has now expired, the proposed change to § 36.4312(e)(2) has been dropped from the final rule.

Based on the rationale set forth in the proposed rule we are affirming as a final rule the change made to § 36.4311 of title 38, Code of Federal Regulations.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This rule would have no such effect on State, local, or tribal governments, or the private sector.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The addition of hybrid adjustable rate mortgages will benefit lenders by providing an additional loan product for use in making VA-guaranteed loans. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance Program numbers applicable to this rule are 64.114 and 64.119.

List of Subjects in 38 CFR Part 36

Condominiums, Flood insurance, Housing, Indians, Individuals with disabilities, Loan programs-housing and community development, Loan programs-Indians, Loan programs-veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

Approved: December 17, 2004.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set out in the preamble 38 CFR part 36 is amended as set forth below.

PART 36—LOAN GUARANTY

■ 1. The authority citation for part 36 continues to read as follows:

Authority: 38 U.S.C. 501, 3701–3704, 3707, 3710–3714, 3719, 3720, 3729, 3762, unless otherwise noted.

■ 2. Section 36.4311 is amended by:

■ a. Revising paragraph (d) introductory text;

■ b. In paragraph (d)(2), revising the first sentence;

■ c. Revising paragraph (d)(4) introductory text;

■ d. Revising paragraph (d)(5) introductory text;

■ e. Revising the authority citation at the end of the section.

The revisions read as follows:

§ 36.4311 Interest rates.

* * * * *

(d) Effective October 1, 2003, adjustable rate mortgage loans which comply with the requirements of this paragraph (d) are eligible for guaranty.

* * * * *

(2) * * * Interest rate adjustments must occur on an annual basis, except that the first adjustment may occur no sooner than 36 months from the date of the borrower's first mortgage payment. * * *

* * * * *

(4) *Initial rate and magnitude of changes.* The initial contract interest rate of an adjustable rate mortgage shall be agreed upon by the lender and the veteran. Annual adjustments in the interest rate shall correspond to annual changes in the interest rate index, subject to the following conditions and limitations:

* * * * *

(5) *Pre-loan disclosure.* The lender shall explain fully and in writing to the borrower, at the time of loan application, the nature of the obligation taken. The borrower shall certify in writing that he or she fully understands the obligation and a copy of the signed certification shall be placed in the loan folder and furnished to VA upon request.

* * * * *

(Authority: 38 U.S.C. 3707A)

[FR Doc. 05–8714 Filed 4–29–05; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R10–OAR–2004–WA–0001; FRL–7894–7]

Approval and Promulgation of Implementation Plans; Wallula, Washington PM_{10} Nonattainment Area; Serious Area Plan for Attainment of the Annual and 24-Hour PM_{10} Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is taking final action to approve Washington's State Implementation Plan for the Wallula, Washington serious nonattainment area for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). Wallula was initially classified as a moderate nonattainment area for PM_{10} pursuant to the Clean Air Act Amendments of 1990. In 2001, it was reclassified as a serious nonattainment area for PM_{10}. As a result, Washington was required to submit a serious area plan for bringing the area into attainment. Washington submitted a serious area plan on November 30, 2004. We are approving this plan for Wallula, Washington because it meets the Clean Air Act requirements for PM_{10} serious nonattainment areas.

DATES: Effective June 1, 2005.

ADDRESSES: Copies of the State's request and other supporting information used in developing this action are available for inspection during normal business hours at the following locations: EPA, Office of Air, Waste, and Toxics (AWT–107), 1200 Sixth Avenue, Seattle, Washington 98101. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. A reasonable fee may be charged for copies.

FOR FURTHER INFORMATION CONTACT: Donna Deneen, Office of Air, Waste, and Toxics (AWT–107), EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101, (206) 553–6706.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What Is the Background of This Rulemaking?
II. What Comments Did We Receive on the Proposed Action?
III. What Is Our Final Action?
IV. Statutory and Executive Order Reviews

I. What Is the Background for This Action?

On November 30, 2004, the State of Washington, Department of Ecology (Ecology) submitted a State Implementation Plan revision entitled ''A Plan for Attaining Particulate Matter (PM_{10}) Ambient Air Quality Standards in the Wallula Serious Nonattainment Area'' (Wallula serious area plan or Plan). This plan was submitted to meet subparts 1 and 4 Clean Air Act (CAA or Act) planning requirements for the Wallula PM_{10} serious nonattainment area. A detailed description of our proposed action to approve this plan was published in a proposed rulemaking in the **Federal Register** on February 1, 2005. (70 FR 5086).

II. What Comments Did We Receive on the Proposed Action?

EPA provided a 30-day review and comment period on our proposal published in the **Federal Register** on February 1, 2005. No comments were received on the proposed rulemaking.

III. What Is Our Final Action?

We are taking final action to approve the Wallula PM_{10} serious area plan because it meets all the requirements for a serious area plan under the Clean Air Act. After further consideration, however, we have decided not to approve as part of this action to approve the State's revised definition of ''major stationary source'' in WAC 173–400–112 (effective September 15, 2001). This revised definition was submitted by the State on June 29, 2004 as part of a larger rulemaking package, and was proposed for approval in order to meet the serious area planning requirements of CAA section 189(b)(3). Upon further review, we have determined that it is unnecessary to take action on this revision at this time because federally-approved WAC 173–400–030(40) (approved at 60 FR 28726, June 2, 1995) already meets the requirements of CAA section 189(b)(3). In light of this fact and our desire to avoid the potential confusion that could arise by acting on only a small portion of the June 29, 2004 SIP submittal, we have decided to not take final action on the revised definition at this time.

EPA's decision to not take final action at this time on the definition of ''stationary source'' in the June 29, 2004 rulemaking package does not in any way impact the existing federally-approved new source review requirements for the State of Washington. Rather, we believe it is more efficient and less confusing to act on this provision at the same time we are acting on other parts of the June 2004 submittal.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 1, 2005.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 22, 2005.

Michael F. Gearheard,

Acting Regional Administrator, Region 10.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart WW—Washington

■ 2. Section 52.2470 is amended by adding paragraph (c)(86) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(86) On November 30, 2004, the Washington Department of Ecology (Ecology) submitted a serious area plan for the Wallula serious nonattainment area for PM_{10}.

(i) Incorporation by reference.

(A) The following terms and conditions limiting particulate matter emissions in the following permits or administrative orders:

(1) Washington Department of Ecology Administrative Order No. 02AQER–5074 for IBP, Inc. (now known as Tyson Foods Inc.) dated December 6, 2002 except for the following: Finding number 4 (''T–BACT''), found on page 5 of document and item 3.3 of Approval Condition number 3 (''Emission Limits and Test Methods'') found on page 7 of the document.

(2) Washington State Department of Ecology Air Operating Permit for Boise White Paper, L.L.C. Permit No. 000369–7, dated December 1, 2004, the following condition only: 1.Q.1 (''Particulate-fugitive dust'') of item Q (''Landfill/Compost Operation'').

(3) Washington State Department of Ecology Administrative Order for Boise Cascade Corporation, Wallula Mill, Order No. 1614–AQ04, dated August 19, 2004 and effective September 15, 2004, the following condition only: No. 1 (''Approval Conditions'') and Appendix A (''Dust Control Plan'' for Boise Paper—Wallula Mill, ''Landfill and Composting Areas'') dated February 18, 2004.

(4) Fugitive Dust Control Plan for Simplot Feeders Limited Partnership, dated December 1, 2003.

(B) [Reserved.]

(ii) Additional Material.

(A) Washington State Department of Ecology Columbia Plateau Windblown Dust Natural Events Action Plan, dated 2003.

(B) Washington State Department of Ecology Fugitive Dust Control Guidelines for Beef Cattle Feedlots and Best Management Practices, dated December 13, 1995.

■ 3. Section 52.672 is amended by revising paragraph (e) to read as follows:

§ 52.2475 Approval of plans.

* * * * *

(e) Particulate Matter.

(1) Wallula.

(i) EPA approves as a revision to the Washington State Implementation Plan, the Wallula Serious Area Plan for PM_{10} adopted by the State on November 17, 2004 and submitted to EPA on November 30, 2004.

(ii) [Reserved.]

(2) [Reserved.]

* * * * *

[FR Doc. 05–8597 Filed 4–29–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[R07–OAR–2005–IA–0002; FRL–7906–9]

Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the state of Iowa for the purpose of clarifying that only untreated wood, seeds, pellets and other vegetative matter may be burned in fuel burning equipment and residential heating units; to remove a reference to a boiler that was removed at a power and water facility, and to clarify the language with regard to continuous emissions monitoring. One administrative correction to the operating permit program is also included in this revision. Approval of these revisions will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's revised air program rules.

DATES: This direct final rule will be effective July 1, 2005, without further notice, unless EPA receives adverse comment by June 1, 2005. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R07–OAR–2005–IA–0002, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Agency Web site: http://docket.epa.gov/rmepub/.* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search;'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. *E-mail: Hamilton.heather@epa.gov.*

4. *Mail:* Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

5. *Hand Delivery or Courier.* Deliver your comments to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to RME ID No. R07–OAR–2005–IA–0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://docket.epa.gov/rmepub/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov, or e-mail. The EPA RME Web site and the Federal regulations.gov Web site are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you

provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://docket.epa.gov/rmepub/*. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551–7039, or by e-mail at *Hamilton.heather@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What does Federal approval of a state regulation mean to me?
What is the Part 70 operating permits program?
What is the Federal approval process for an operating permits program?
What is being addressed in this document?
Have the requirements for approval of a SIP and Part 70 revision been met?
What action is EPA taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is the Part 70 Operating Permits Program?

The CAA Amendments of 1990 require all states to develop operating permits programs that meet certain Federal criteria. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. One purpose of the part 70 operating permits program is to improve enforcement by issuing each source a single permit that consolidates all of the applicable CAA requirements into a Federally-enforceable document. By consolidating all of the applicable requirements for a facility into one document, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in our implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen dioxide, or PM_{10}; those that emit 10 tons per year of any single hazardous air pollutant (HAP) (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of HAPs.

Revision to the state and local agencies operating permits program are also subject to public notice, comment, and our approval.

What Is the Federal Approval Process for an Operating Permits Program?

In order for state regulations to be included in the Federally-enforceable Title V operating permits program, states must formally adopt regulations consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state

submits it to us for inclusion into the approved operating permits program. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 502 of the CAA, including revisions to the state program, are included in the Federally-approved operating permits program. Records of such actions are maintained in the CFR at Title 40, part 70, appendix A, entitled ''Approval Status of State and Local Operating Permits Programs.''

What Is Being Addressed in This Document?

This SIP revision was submitted by the state of Iowa for the purpose of clarifying that only untreated wood, seeds, pellets and other vegetative matter may be burned in fuel burning equipment and residential heating units; to remove a reference to a boiler that was removed at a power and water facility, and to clarify the language with regard to continuous emissions monitoring. One administrative correction is also included in this revision under 40 CFR part 70.

The first revision is to Chapter 22, of the Iowa Administrative Code, subrules 22.1(2), paragraphs ''b'' and ''j''. This rule provides exemptions from the minor source construction permitting program. The rule was revised to add additional information with regard to untreated wood, seeds or pellets, or other untreated vegetative materials. This revision was made in response to frequent inquiries as to whether certain materials could be burned in fuel burning equipment, or residential heating units. Although manufacturers recommend against the burning of treated materials due to the release of toxic emissions, IDNR is making a clarification to specifically identify that only untreated matter may be used in this equipment in order to protect human health and the environment. This clarification is not a relaxation of the SIP, but rather makes the rule more protective of public health.

Chapter 23, subparagraph 23.3(2)''b''(5) provides source-specific particulate emission limits for certain sources, is being revised to remove the reference to a stack serving a boiler that was located at Muscatine Power and Water. This reference is being removed from Chapter 23 as the boiler was permanently removed from service at the facility on September 17, 1985.

Chapter 25, subrules 25.1(5) and 25.1(6), as well as 25.1(10) and 25.1(11) apply to continuous emissions monitoring. The revision clarified the applicability of monitoring requirements with regard to maintaining records of continuous monitors, reporting continuous monitoring information, identifying exemptions from continuous monitoring requirements, and requests for extensions of time to install monitoring equipment. The rule now specifies that it is applicable to all owners and operators who are required to install continuous monitors, not just, as previously stated, owners or operators of coal-fired steam generating units or sulfuric acid plants. This rule is applicable to sources that are required to perform continuous emissions monitoring to meet SIP requirements but are not subject to more stringent monitoring requirements in other rules (*e.g.*, sources subject to more restrictive monitoring requirements in permits).

An administrative error was made in the previous revision of rule 22.3(3), Conditions of approval for permits. This SIP and 40 CFR part 70 revision adds a comma between fuel specifications and compliance testing to differentiate between the two conditions.

Have the Requirements for Approval of a SIP and Part 70 Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations. This revision also meets the applicable requirements of Title V and EPA regulations for revision to the operating permits program.

What Action Is EPA Taking?

EPA is approving a revision to the SIP submitted by the state of Iowa. Changes to the Iowa Administrative Code, Chapter 22, subrule 22.1(2), paragraphs ''b'' and ''j'' clarify that only untreated wood, seeds, pellets and other vegetative matter may be burned in fuel burning equipment and residential heating units. Chapter 23, subparagraph 23.3(2)''b''(5), removes a reference to a boiler that was removed at a power and water facility. Chapter 25, subrules 25.1(5), 25.1(6), 25.1(10), and 25.1(11) clarify the language with regard to continuous emissions monitoring. One administrative correction to the SIP and the operating permit program is also included in this revision in Chapter 22, subrule 22.3(3).

We are processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the

relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing state submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 1, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 70

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: April 22, 2005.

James B. Gulliford,

Regional Administrator, Region 7.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Q—Iowa

■ 2. In § 52.820 the table in paragraph (c) is amended by revising the entries for 567–22.1, 567–22.3, 567–23.3, and 567–25.1 to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED IOWA REGULATIONS

Iowa citation	Title	State effective date	EPA approval date	Explanation
Iowa Department of Natural Resources Environmental Protection Commission [567]				
* *	* *	*	*	*
Chapter 22—Controlling Pollution				
567–22.1	Permits Required for New or Existing Stationary Sources.	12/15/04	May 2, 2005 [insert FR page number where the document begins].	
* *	* *	*	*	*
567–22.3	Issuing Permits	12/15/04	May 2, 2005 [insert FR page number where the document begins].	Subrule 22.3(6) is not SIP approved.
* *	* *	*	*	*
Chapter 23—Emission Standards for Contaminants				
* *	* *	*	*	*
567–23.3	Specific Contaminants	12/15/04	May 2, 2005 [insert FR page number where the document begins].	Subrule 23.3(3) ''d'' is not SIP approved.

EPA-APPROVED IOWA REGULATIONS—Continued

Iowa citation	Title	State effective date	EPA approval date	Explanation
* * *	*	*	*	*
	Chapter 25—Measurement of Emissions			
567–25.1	Testing and Sampling of New and Existing Equipment.	12/15/04	May 2, 2005 [insert FR page number where the document begins].	
* * *	*	*	*	*

* * * * *

PART 70—[AMENDED]

■ 1. The authority citation for Part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. Appendix A to Part 70 is amended by adding under ''Iowa'' paragraph (h) to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Iowa

* * * * *

(h) The Iowa Department of Natural Resources submitted for program approval an administrative correction to rule ''567–22.3'' on December 15, 2004. The state effective date is December 15, 2004. This revision to the Iowa program is approved effective July 1, 2005.

* * * * *

[FR Doc. 05–8708 Filed 4–29–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[R07–OAR–2005–MO–0004; FRL–7906–7]

Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Missouri State Implementation Plan (SIP) and Operating Permits Program. EPA is approving a revision to the Missouri rule entitled ''Submission of Emission Data, Emission Fees, and Process Information.'' This revision will ensure consistency between the state and the Federally-approved rules.

DATES: This direct final rule will be effective July 1, 2005, without further notice, unless EPA receives adverse comment by June 1, 2005. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R07–OAR–2005–MO–0004, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Agency Web site: http://docket.epa.gov/rmepub/.* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search;'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. *E-mail: daniels.leland@epa.gov.*

4. *Mail:* Leland Daniels, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

5. *Hand Delivery or Courier.* Deliver your comments to Leland Daniels at the above-listed address.

Instructions: Direct your comments to RME ID No. R07–OAR–2005–MO–0004. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://docket.epa.gov/rmepub/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov, or e-mail. The EPA RME Web site and the Federal regulations.gov Web site are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://docket.epa.gov/rmepub/.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30 p.m., excluding Federal

holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Leland Daniels at (913) 551–7651, or by e-mail at *daniels.leland@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What does Federal approval of a state regulation mean to me?
What is the Part 70 operating permits program?
What is the Federal approval process for an operating permits program?
What is being addressed in this document?
Have the requirements for approval of a SIP revision and Part 70 revision been met?
What action is EPA taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA or Act) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by us. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is the Part 70 Operating Permits Program?

The CAA Amendments of 1990 require all states to develop operating permits programs that meet certain Federal criteria. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. One purpose of the part 70 operating permits program is to improve enforcement by issuing each source a single permit that consolidates all of the applicable CAA requirements into a Federally-enforceable document. By consolidating all of the applicable requirements for a facility into one document, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in our implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen dioxide, or PM_{10}; those that emit 10 tons per year of any single hazardous air pollutant (HAP) (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of HAPs.

Revision to the state and local agencies operating permits program are also subject to public notice, comment, and our approval.

What Is the Federal Approval Process for an Operating Permits Program?

In order for state regulations to be incorporated into the Federally-enforceable Title V operating permits program, states must formally adopt regulations consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the approved operating permits program. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 502 of the CAA are incorporated into the Federally-approved operating permits program. Records of such actions are maintained in the CFR at Title 40, part 70, appendix A, entitled ''Approval Status of State and Local Operating Permits Programs.''

What Is Being Addressed in This Document?

Missouri, in its letter of December 8, 2004, requested that EPA approve a revision to the SIP and Operating Permits Program as revisions to rule 10 CSR 10–6.110, ''Submission of Emission Data, Emission Fees, and Process Information'' had been made. This rule deals with submittal of emissions information, emission fees, and public availability of emissions data. It provides procedures for collection, recording, and submittal of emissions data and process information on state-supplied Emission Inventory Questionnaire and Emission Statement forms so that the state can calculate emissions for the purpose of state air resource planning.

Missouri updates this rule periodically. This action covers the amendment made in 2004 which includes the following. Paragraph

(3)(D)1. was amended to establish emission fees for calendar year 2004 and subsection (3)(G), request for additional fees and emission fee refunds, was removed from the rule.

By State statute, the emission fees are set annually to fund the reasonable cost of administering the program. Missouri continually evaluates the Operating Permits Program financial situation. An emissions fee of $33.00 per ton of regulated air pollutant starting with calendar year 2004 was established. This is a reduction of one dollar per ton of regulated air pollutant from 2003. The fee is sufficient to fund the cost of administering the Part 70 Operating Permits Program. The emission fees are found in section (3)(D) of the amended rule.

Subsection (3)(G) of the rule provided a mechanism for sources to pay balances due for underpayment and receive refunds for overpayment in a prior calendar year. Subsection (3)(G) was removed as there was no statutory authority for those requirements. EPA believes that the state has adequately demonstrated that removal of this provision will not adversely impact its ability to collect adequate fees, as required by 40 CFR 70.9.

Have the Requirements for Approval of the SIP Revision and Part 70 Revision Been met?

The submittal satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, the state submittal has met the public notice requirements for SIP submission in accordance with 40 CFR 51.102 and met the substantive SIP requirements of the CAA including section 110 and 40 CFR 51.211, relating to submission of emissions data.

Finally, the submittal met the substantive requirements of Title V of the 1990 CAA Amendments and 40 CFR part 70, including the requirement in 40 CFR 70.9 relating to emission fees.

What Action Is EPA Taking?

We are approving a revision to the Missouri SIP and incorporating the revised rule 10 CSR 10–6.110, ''Submission of Emissions Data, Emission Fees, and Process Information.''

We are also approving section (3)(D) of this rule as a program revision to the state's Part 70 Operating Permits Program.

We are processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial, and make regulatory revisions required by state statute. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP and Title V permit submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state submission, to use VCS in place of a submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 1, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping

requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 70

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: April 22, 2005.

James B. Gulliford,

Regional Administrator, Region 7.

■ Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA—Missouri

■ 2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entry for ''10–6.110'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
*	*	*	*	*
10–6.110	Submission of Emission Data, Emissions Fees, and Process Information.	12/30/04	5/2/05 [insert FR page number where the document begins].	Section (3)(D), Emission Fees, has not been approved as part of the SIP.
*	*	*	*	*

* * * * *

PART 70—[AMENDED]

■ 1. The authority citation for Part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Appendix A—[Amended]

■ 2. Appendix A to Part 70 is amended by adding paragraph (p) under Missouri to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Missouri

* * * * *

(p) The Missouri Department of Natural Resources submitted revisions to Missouri rule 10 CSR 10–6.110, ''Submission of Emission Data, Emission Fees, and Process Information'' on December 8, 2004, approval of section (3)(D) effective July 1, 2005.

* * * * *

[FR Doc. 05–8703 Filed 4–29–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7905–5]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of deletion of the Lower Ecorse Creek Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA), Region V is publishing a direct final notice of deletion of the Lower Ecorse Creek, Superfund Site (Site), located in Wyandotte, Michigan, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Michigan, through the Michigan Department of Environmental Quality, because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not necessary at this time.

DATES: This direct final notice of deletion will be effective July 1, 2005, unless EPA receives adverse comments by June 1, 2005. If adverse comments are received, EPA will publish a timely withdrawal of the direct final notice of deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: Timothy Prendiville, Remedial Project Manager (RPM) at (312) 886–5122, *Prendiville.Timothy@EPA.Gov* or Gladys Beard, State NPL Deletion Process Manager at (312) 886–7253, Beard.Gladys@EPA.Gov, U.S. EPA Region V, 77 W. Jackson, Chicago, IL 60604, (mail code: SR–6J) or at 1–800–621–8431.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: EPA Region V Library, 77 W. Jackson, Chicago, Il 60604, (312) 353–5821, Monday through Friday 8 a.m. to 4 p.m.; Bacon Memorial Public Library, 45 Vinewood, Wyandotte, MI 54656, (734) 246–8357, Monday through Thursday 10 a.m. to 9 p.m., Friday and 9 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Timothy Prendiville, Remedial Project

Manager at (312) 886–5122, *Prendiville.Timothy@EPA.Gov* or Gladys Beard, State NPL Deletion Process Manager at (312) 886–7253, *Beard.Gladys@EPA.Gov* or 1–800–621–8431, (SR–6J), U.S. EPA Region V, 77 W. Jackson, Chicago, IL 60604.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
V. Deletion Action

I. Introduction

EPA Region V is publishing this direct final notice of deletion of the Lower Ecorse Creek, Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be non-controversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective July 1, 2005, unless EPA receives adverse comments by June 1, 2005, on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Lower Ecorse Creek Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c), requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of this Site:

(1) The EPA consulted with Michigan on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.

(2) Michigan concurred with deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final notice of deletion a notice of intent to delete is published today in the ''Proposed Rules'' section of the **Federal Register**, is being published in a major local newspaper of general circulation at or near the Site, and is being distributed to appropriate federal, state, and local government officials and other interested parties. The newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this document EPA will publish a timely notice of withdrawal of this direct final notice of deletion before its effective date and will prepare a response to comments and continue with a decision on the deletion based on the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting this Site from the NPL:

Site Location

The LEC Site is located in Section 17, R11E, T3SN in the City of Wyandotte, Wayne County, Michigan. The City of Wyandotte is located about 6 miles southwest of the City of Detroit. The Site area includes six residential blocks centered around the 400 block of North Drive. The Detroit and Toledo Railroad tracks are located east of the residential area. The Ecorse River borders the site to the north and west. Directly north of the Ecorse River are the Downriver Communities Combined Sewer Overflow Treatment Plant and the Abandoned Great Lakes Steel Foundary. Two lots located at 2303 Oak Street were also included as part of the site. The Oak Street Site is located approximately 1.5 miles west-northwest of the North Drive properties at the corner of 23rd and Oak Street.

Site History

Before 1930, lands near the banks of the Ecorse River in Wyandotte were wetlands. A 1937 aerial photograph shows the wetlands and small brook that flowed to a river in the lots between lots 23/24 (470/480 North Drive) and lot 27 (446 North Drive). A 1951 photograph indicates that most of the wetland area had been filled, and residential development along North Drive had occurred by that time.

By 1957 the river had been rechanneled. The confluence of the north and south branches of the river were relocated from north of lot 43 (304 North Drive). Extensive fill is evident north of the Ecorse River. Modifications to the river in the early 1980s involved straightening the south bank of the river at the rear of several residential

properties in the area, reportedly using construction debris as fill. Interviews with local residents indicate that the homes on North Drive were built from about the 1920s through the 1980s.

In 1989, the owner of the residence at 470/480 North Drive (Lots 23/24) reported to the Wayne County Health Department (WCHD) that workers excavating on their property had encountered blue-colored soil. The WCHD contacted the Agency for Toxic Substances and Disease Registry (ATSDR), and both agencies subsequently contacted the U.S. EPA for further investigation. The U.S. EPA found a large area of soil contaminated with ferric ferrocyanide. It is suspected that the waste came from a coal-gasification plant. Blue-colored water was observed in the basement sump of the house on lots 23/24. Blue stains were also seen on the basement walls of the house.

Remedial Investigation and Feasibility Study (RI/FS)

In January 21, 1994, U.S. EPA initiated a fund-lead RI/FS. U.S. EPA's contractor, CH2M Hill initiated field work at the site in November of 1994 and completed the activities by December 1994. The RI found that soils were the only medium of concern and that the soils in the North Drive area were contaminated with cyanide, PAHs and other metals.

In the area of the previous investigations performed during the time-critical removal, cyanide was detected in 73 percent of the surface soil samples at a maximum reported concentration of 1,730 mg/kg. During the RI, cyanide was also detected in the subsurface soils in most of the samples collected from the area of the previous investigations with a maximum concentration of 32,300 mg/kg at a depth of 4 to 6 feet. The maximum cyanide concentration in the soil samples collected outside the previous investigation area was 4.0 mg/kg, measured in a surface soil sample.

Antimony, arsenic, barium, chromium, copper, iron, lead, manganese, and zinc were the metals detected most frequently at concentrations greater than background in both surface and subsurface soils at the site. Metals were detected above background most frequently in the fill area adjacent to the Ecorse River.

The majority of surface soil samples did not contain any detectible volatile organic compounds (VOCs). Polynuclear aromatic hydrocarbons (PNAs), were detected across the site in both surface and subsurface soils. The maximum detected for an individual PNA was 150,000 ug/kg for pyrene. The highest concentration of PNA's were detected in the area of previous investigations. Dioxin was found in soils at 10 site locations, primarily in the playground/park area at a maximum concentration of 16.0 ng/g. Two surface soil and two subsurface soil samples also contained polychlorinated biphenyls (PCBs). The maximum concentration was 250 ug/kg in a subsurface soil sample from the playground/park area.

At the Oak Street area, cyanide was detected in subsurface soils at concentrations ranging from 44.1 to 7,438 mg/kg. The highest concentrations were found in the west area, adjacent to the asphalt parking area.

A Feasibility Study (FS) was prepared for this site by U.S. EPA's contractor CH2M Hill in January 1996. It evaluated three alternatives for the site based upon the findings in the RI: (1) No Action, (2) Excavation and Disposal of Shallow Contaminated Soil and Implementation of Institutional Controls for Areas with Deep Contamination, and (3) Excavation and off-site Treatment and Disposal of Shallow and Deep Contaminated Soil.

Part of the site work during the RI/FS and RD/RA has centered on isolated spots of contamination found in the City of Wyandotte owned Park Area located on the 600 block of North Drive. The Park Area is about 1 acre in size and has a small playground equipment area, swing set, pavilion and basketball court, but most of the property is grass covered and is for general recreational use.

Sampling of the Park during the RI had found 3 small areas of subsurface soil with lead and/or arsenic above cleanup standards. The Remedial Design estimated that approximately 170 cubic yards of contaminated soil would require removal. When excavation continued at the Park in March 2000, a layer of debris was found three to four feet beneath the surface. This material had no similarities to the cyanide waste found elsewhere in the area. When the material was sampled elevated levels of lead and arsenic slightly above the State of Michigan's cleanup standards were found. Nine test excavations were dug to determine the extent of this waste layer. Those tests showed that the layer of debris exists under most of the park and is about six feet thick (approximately 10,000 cubic yards of waste) with three feet of clean fill above the waste layer. Surface soil sample results from 15 locations taken during the RI have shown that the surface soils are clean. However the material does not continue onto adjacent properties. None of the material in any of the test pits exhibited the same physical characteristics as the cyanide contaminated waste found on other properties. The debris appears to be general household waste disposed of many years ago and consisting of things such as broken glass, rags, shoes and other garbage.

Record of Decision Findings

In April 1996, U.S. EPA issued a Proposed Plan to the public, and held a public meeting on May 9, 1996, to discuss the proposal. Public comments were also received at the meeting. The public comment period extended from April 30, 1996 through May 29, 1996.

On July 17, 1998, with the concurrence of the MDEQ, the U.S. EPA signed a Record of Decision for the Lower Ecorse Creek Site. Responses to all public comments received on the Proposed Plan are contained in the Responsiveness Summary attached to the final ROD. The U.S. EPA selected Alternative 3 Excavation and Off-Site Treatment and Disposal of Shallow and Deep Contaminated Soil, as the most appropriate remedy for the site. The major components of the selected remedy were:

—Resampling of the locations above the cleanup standards in residential properties to determine the extent of contamination;
—Excavation of shallow and deep contaminated soils;
—Off-site disposal of contaminated soil with prior stabilization, if required, based on waste characterization sampling; and,
—Restoration of residential areas.

U.S. EPA published notice of a proposed plan to amend the 1996 Record of Decision to address the conditions in the park area. The public comment period ran from February 28, 2001 until March 29, 2001. No comments were received from the general public nor from the City of Wyandotte, the property owner. On July 13, 2001, the U.S. EPA Region 5 Superfund Division Director signed a ROD amendment addressing the subsurface soil contamination in the Park Area. The amended remedy requires implementation and maintenance of institutional controls restricting use of the land and the groundwater at the City of Wyandotte Park Area. The ROD Amendment also specified that the remedy would remain unchanged for all other portions of the Site.

Characterization of Remaining Risk

The only remaining risks at the Lower Ecore Creek site are related to the remaining contamination in the park area. Currently the remaining

contamination is located beneath at least 3 feet of clean fill material. The City of Wyandotte is responsible for maintaining the integrity of that cover layer. However, if the cover layer were to erode or become damaged in some other way, recreational users could come in contact with the contaminated waste. The only contaminants found in the park area during the RI/FS and RD/RA above MDEQ Part 201 health-based standards were lead and arsenic. Through confirmation sampling all other areas of the site are considered clean, i.e., below MDEQ Part 201 health-based standards.

Response Actions

ATSDR issued health consultations on the site in November 1989, July 1990, November 1990, and March 1991. ATSDR concluded in these consultations that the site posed a significant health threat and recommended that the residents avoid contact with the contaminated areas until permanent measures could be completed.

In December 1989, U.S. EPA covered the areas of visible contamination with six inches of clean top soil. After it was reported that the new soil was being eroded away, additional soil was added to the cover in August 1991. In January 1993, the owner of the residence at lots 23/24 reported that his basement had flooded with blue water. U.S. EPA investigators found that these waters contained high concentrations of cyanide.

On August 13, 1993, ATSDR issued a Public Health Advisory for the North Drive (Lower Ecorse Creek) Site. The Advisory concluded that the cyanide levels found in the soil posed a significant public health hazard and that anyone using shallow ground water in the site area may be at a risk of exposure to cyanide contaminated water. The advisory made several recommendations, the most significant of which was to dissociate the residents from the cyanide contamination.

In November 1993, U.S. EPA began a time-critical removal action at the site. This action included sampling 10 residential lots for cyanide and other contaminants. Based upon these results, contaminated soils from around the residences at lots 23/24 and 91/92 were removed and disposed of off-site. The foundations at both residences were also found to be deteriorated by the corrosive nature of the waste. Repairs were made by U.S. EPA to both foundations. At lots 23/24 application of a chemical resistant sealant to the basement walls and floors, and restorations of the surface drainage at the residence were also required. The time-critical removal was completed by January 1994.

On January 19, 1994 the Lower Ecorse Creek site was proposed for listing on the National Priorities List (NPL) based upon ATSDR's Public Health Advisory. The site became final on the NPL on May 31, 1994.

In March 1995, an area of cyanide contamination, similar to the material identified at the North Drive area, was discovered at the residential lot at 2303 Oak Street, Wyandotte, Michigan. A time-critical removal action was initiated and contaminated soil was excavated and disposed off-site; the site was restored in May 1995. Because of the apparent similarity of the material to that found at the LEC site, the Oak Street site was included in the Remedial Investigation/Feasibility Study for the LEC Site.

On November 29, 1995, ATSDR released a final Public Health Assessment for the site which stated that the recommendations made in the 1993 Public Health Advisory concerning this site have been met.

Site mobilization for the fund-lead RA began in April 1998. All construction activities were completed in September 2000. Forty-nine individual areas were excavated over the course of the RA affecting 14 separate residential lots. During the RA, approximately 3,500 tons of contaminated soil have been removed from the site and disposed of in an approved off-site facility. Also, approximately 90,000 gallons of water were disposed of off-site. During the excavation of several locations water from the creek infiltrated the open hole. In order to complete the excavation of the contaminated soil the water was pumped out of the holes and disposed of at an off-site treatment facility. Also, remaining was the re-waterproofing of the basement at 471 North Drive. During the 1994 Removal project at the site the basement wall was reconstructed and waterproofed. After the completion of the work on his basement, the homeowner complained of water seeping into the basement through that wall. The subsequent repairs took place through the Remedial Action contract and were completed in September 2000. A complete narrative of the RA activities can be found in the September 20, 2000 Remedial Action Report. The final inspection took place on September 20, 2000. In May 2002, the homeowner of 471 North Drive contacted the U.S. EPA Project Manager (RPM). The homeowner observed blue staining at the base of the north basement wall. On May 16, 2002, the RPM inspected the basement and verified the owner's observations. A small area of blue staining was observed at the base of the cinder block wall, about 6 to 12 inches from the eastern wall. Water seepage also was noted along the entire length of the wall.

In August 2002, U.S. EPA executed a procurement request with CH2M Hill to address the remaining concerns at the 471 North Drive property. In September 2002, remedial excavation activities were initiated by CH2M Hill to address the seepage of contaminated water into the residential basement at 471 North Drive. Remedial construction consisted of the excavation and off site disposal of the contaminated soil adjacent to the north basement walls below the front porch, exposure of the north basement wall, and application of waterproofing material to the foundation wall to prevent further leakage. The north foundation drain line was found to be crushed and was replaced prior to backfill of the foundation wall. Confirmatory soil sampling was conducted from September 18 to September 30, 2002. The sampling results indicated that no additional excavation and remedial construction work was required.

Cleanup Standards

For the soil a risk-based cleanup standard was used which is protective of human health the environment. The cleanup standards in the ROD were designed to meet the Michigan Act 245, Rule 57 and Michigan Act 451, Part 201 performance standards. This Site is being deleted because it meets all cleanup standard's outlined in the ROD.

Operation and Maintenance

The cleanup selected in the original 1996 ROD remedy did not require operation and maintenance because all contaminated soils were to be excavated and disposed of off-site. However, implementation of the 2001 ROD Amendment #1 results in approximately 10,000 cubic yards of waste being left on-site on one parcel of the property, the Park Area. In accordance with ROD Amendment #1, and the 2002 UAO, the City of Wyandotte is responsible for the monitoring and maintenance of the existing cover on the Park Area and maintenance of deed restrictions on the parcel. During routine maintenance of the Park Area, the City is required to inspect the property for any conditions which may, in the course of recreational use or precipitation events, erode the approximately three foot layer of clean fill material. They are also to repair any areas where the soil cover has been disturbed or eroded. A formal inspection of the property is to be recorded by the City on a yearly basis.

Five-Year Review

A statutory five-year review will be conducted for the Site on July 13, 2006. As required by Statute, the EPA must conduct a five-year review pursuant to CERCLA 121 (c) and as provided in the current guidance on Five Year Reviews.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion of this Site from the NPL are available to the public in the information repositories.

V. Deletion Action

The EPA, with concurrence of the State of Michigan, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA are necessary. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be non-controversial and routine, EPA is taking it without prior publication. This action will be effective July 1, 2005, unless EPA receives adverse comments by June 1, 2005. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect. EPA will prepare a response to comments and, as appropriate, continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: April 20, 2005.

Norman Niedergang,

Acting Regional Administrator, U.S. EPA Region V.

■ For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Appendix B—[Amended]

■ 2. Table 1 of Appendix B to Part 300 is amended under Michigan ''MI'' by removing the entry for ''Lower Ecorse Creek'' and the city ''Wyandotte.''

[FR Doc. 05–8601 Filed 4–29–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 24

[FHWA Docket No. FHWA–2003–14747]

FHWA RIN 2125–AE97

Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Correction to final rule.

SUMMARY: This document corrects the final rule updating 49 CFR Part 24 published in the **Federal Register** on January 4, 2005 (70 FR 590). The FHWA is making two corrections. First, references to ''market value'' are corrected to ''fair market value.'' Second, in Appendix A, Section 24.103 the numerical reference is corrected.

DATES: *Effective Date(s):* June 1, 2005

FOR FURTHER INFORMATION CONTACT: Mr. Reginald K. Bessmer, Office of Real Estate Services, HEPR, 202–366–2037, or Ms. JoAnne Robinson, Office of the Chief Counsel, HCC–30, (202) 366–1346, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours for the FHWA are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

Internet users may also reach the Office of the Federal Register's home page at: *http://www.archives.gov* and the Government Printing Office's Web page at: *http://www.access.gpo.gov/nara.*

Background

The FHWA published a final rule updating 49 CFR Part 24 on January 4, 2005, at 70 FR 590. After reviewing the final published document, the FHWA realized that there were two mistakes.

First, the language in the final rule cited market value rather than fair market value in twelve locations. In the notice of proposed rulemaking, published on December 17, 2003 (68 FR 70342), we proposed changing the term from ''fair market value'' to ''market value.'' However, after reviewing the comments in response to the NPRM, we decided not to make that change in the final rule. In fact, in the preamble discussion of the final rule, we discussed the fact that a commenter indicated that the term ''market value'' did not reflect current appraisal terminology nor was it universally accepted eminent domain terminology. Therefore, we clearly stated that the term ''fair market value'' is consistent with Uniform Act language and, accordingly, we will retain the term ''fair market value.'' (See preamble to final rule at 70 FR 595). Additionally, clearly the intent was to use fair market value, as cited in Appendix A, Subpart B-Real Property Acquisition, where use of fair market value is cited as being ''used throughout this subpart.'' It was an unintentional oversight that the term ''market value'' remained in the text of the final rule.

Secondly, we discovered an error in a numerical reference to a cite. In Appendix A, Section 24.103(a), Appraisal requirements, the reference ''49 CFR 24.103(a)(1) through (5)'' should read ''49 CFR 24.103(a)(2)(i) through (v).''

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 and the U.S. Department of Transportation regulatory policies and procedures. This action merely corrects terminology and a reference citation in the final rule. This correction is not a substantive change to the rule, but rather, is a ministerial change necessary to accurately reflect the intent of the FHWA.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the FHWA has evaluated the effects of this final rule on small entities and has determined it will not have a

significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA has determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism assessment. The FHWA has also determined that this action does not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction; 20.500 Federal Transit Capital Improvement Grants; 20.505, Federal Transit Metropolitan Planning Grants; 20.507, Federal Transit Formula Grants; 20.515, State Planning and Research. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The FHWA has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that this action will not have any effect on the quality of environment.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000. This action will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

We have analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that this rule is not a significant energy action under EO 11321 because this rule is not a significant regulatory action and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This action is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This action will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Government Actions and Interference with Constitutionally Protected Property Rights.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 24

Real property acquisition, Relocation assistance, Reporting and recordkeeping requirements and Transportation.

Issued on: April 26, 2005.

Mary E. Peters,

Federal Highway Administrator.

■ In consideration of the foregoing, the Federal Highway Administration amends title 49, Code of Federal Regulations, part 24, as set forth below:

PART 24—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY-ASSISTED PROGRAMS

■ 1. The authority citation for Part 24 continues to read as follows:

Authority: 42 U.S.C. 4601 *et seq.*; 49 CFR 1.48(cc).

§ 24.102, 24.103, 24.105, 24.301, 24.401, 24.403, Appendix A to Part 24 [Amended]

■ 2. In part 24, remove the word ''market value'' and add, in their place, the words fair market value'' in the following places:

■ a. Section 24.102(d) and (j);

■ b. Section 24.103(b);

■ c. Section 24.105(c);

■ d. Section 24.301(g)(14)(i), in the third sentence

■ e. Section 24.401(c)(2)(iii);

■ f. Sections 24.403(a)(3) and (c)(6);

■ g. Appendix A, Section 24.101(b)(1)(iv) and (2)(ii);

■ h. Appendix A, Section 24.103(a), in the third paragraph; and

■ i. Appendix A, Section 24.401(c)(2)(iii).

Appendix A to Part 24 [Amended]

■ 3. Amend Appendix A to Part 24, Section 24.103(a), *Appraisal requirements,* in the last sentence of the third paragraph, by removing the citation ''49 CFR 24.103(a)(1) through (5)'' and adding, in its place, the citation ''49 CFR 24.103(a)(2)(i) through (v)''.

[FR Doc. 05–8727 Filed 4–29–05; 8:45 am]

BILLING CODE 4910–22–P

Proposed Rules

Federal Register
Vol. 70, No. 83
Monday, May 2, 2005

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 03–069–3]

RIN 0579–AB85

Public Meeting; Criteria for New Category of Imported Nursery Stock

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of meeting and reopening of comment period.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service will hold a meeting concerning the possibility of establishing a category of plant taxa excluded pending pest risk analysis with respect to the importation of plants for planting. In order to allow interested persons who cannot attend the meeting an opportunity to prepare and submit comments, we are also reopening the comment period for our December 2004 advance notice of proposed rulemaking regarding whether and how we should amend the regulations concerning the importation of nursery stock.

DATES: The public meeting will be held on May 25, 2005, from 8:30 a.m. to 5 p.m. We will also consider written comments that we receive on or before June 3, 2005.

ADDRESSES: The public meeting will be held at the USDA Center at Riverside, 4700 River Road, Riverdale, MD. You may submit written comments by either of the following methods:

- *EDOCKET:* Go to *http://www.epa.gov/feddocket* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the ''View Open APHIS Dockets'' link to locate Docket 03–069–1.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. 03–069–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–069–1.

Reading Room: You may read any comments that we receive on Docket No. 03–069–1 in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: You may view APHIS documents published in the **Federal Register** and related information on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold T. Tschanz, Senior Staff Officer, Permits, Registrations and Imports, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 734–5306.

SUPPLEMENTARY INFORMATION: On December 9, 2004, the Animal and Plant Health Inspection Service (APHIS) published in the **Federal Register** an advance notice of proposed rulemaking (ANPR) and request for comments (69 FR 71736–71744, Docket No. 03–069–1) concerning whether and how we should amend the regulations that govern the importation of nursery stock. We solicited comments concerning our notice for 90 days, ending March 10, 2005.

In a notice published in the **Federal Register** on March 10, 2005 (70 FR 11886, Docket No. 03–069–2), we extended the comment period for Docket No. 03–069–1 for an additional 30 days ending April 11, 2005, to allow interested persons additional time to prepare and submit comments.

As described in the December 2004 ANPR, our regulations in ''Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products'' (7 CFR 319.37 through 319.37–14) currently either (1) prohibit the importation of plants for planting, (2) allow the importation of plants for planting subject to specific restrictions such as additional declarations on phytosanitary certificates or postentry quarantine, or (3) allow the importation of plants for planting subject to general restrictions such as phytosanitary certificates and inspection at a Federal plant inspection station or port of entry.

In the ANPR, we solicited comments on the idea of establishing a new category for certain taxa of plants for planting that would be excluded from importation pending risk evaluation and approval. As described in the ANPR, a taxon in this new category would, with certain exceptions for plants produced under clean stock or best management practices programs, be excluded from importation until APHIS has completed a pest risk assessment (PRA) and the PRA indicated that the taxon could be imported safely. The PRA would provide us an opportunity to identify any phytosanitary mitigation measures that might be necessary to safely import plants for planting of that taxon; those mitigation measures could then be added to the regulations and the taxon removed from the list of taxa excluded from importation pending risk evaluation and approval.

We have recently completed a set of draft criteria that could be used in the decisionmaking process for determining which taxa might be included in the ''excluded pending'' category, should such a category be established. The draft criteria may be viewed on the Internet at *http://www.aphis.usda.gov/ppq/Q37/workshop/* or may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**. The draft criteria are also available in our reading room (information on the location and hours of the reading room is provided under the heading **ADDRESSES** at the beginning of this document).

In order to provide a forum for discussing those draft criteria and associated issues, such as how any such category might be implemented were it to be adopted, we will be holding a public meeting on May 25, 2005, in Riverdale, MD. The meeting will use a workshop format to allow for more effective information exchange between APHIS personnel and those interested persons who attend the meeting. So that individuals who are unable to attend the meeting have an opportunity to provide comments on the draft criteria and the subject of establishing a new category

for taxa excluded from importation pending risk evaluation and approval, we are also reopening the comment period for our December 2004 ANPR until June 3, 2005.

Registration

Due to space considerations, attendance at the public meeting will be limited. We encourage preregistration. You may register by visiting *http://www.aphis.usda.gov/ppq/q37/workshop* or by contacting Ms. Linda Toran by May 20, 2005, at (301) 734–5307 or by e-mail at *Linda.C.Toran@aphis.usda.gov*. Check-in on the day of the meeting will begin at 7:30 a.m.

Parking and Security Procedures

Please note that a fee of $2.25 is required to enter the parking lot at the USDA Center at Riverside. The machine accepts $1 bills or quarters.

Picture identification is required to be admitted into the building. Upon entering the building, visitors should inform security personnel that they are attending the Nursery Stock meeting.

Done in Washington, DC, this 26th day of April 2005.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–8661 Filed 4–29–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–387–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain McDonnell Douglas airplane models, that would have required a one-time inspection for chafing or signs of arcing of the wire bundle for the auxiliary hydraulic pump, and other specified and corrective actions, as applicable. This new action revises the proposed rule by referring to revised procedures for performing the corrective and other specified actions. The actions specified by this new proposed AD are intended to prevent shorted wires or arcing at the auxiliary hydraulic pump, which could result in loss of auxiliary hydraulic power, or a fire in the wheel well of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by May 27, 2005.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–387–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–387–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–387–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–387–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD) applicable to certain McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on June 2, 2003 (68 FR 32693). That NPRM would have required a one-time inspection for chafing or signs of arcing of the wire bundle for the auxiliary hydraulic pump, follow-on actions, and corrective actions if necessary. That NPRM was prompted by reports of shorted wires and evidence of arcing on the power cables of the auxiliary hydraulic pump. That condition, if not corrected, could result in loss of auxiliary hydraulic

power, or a fire in the wheel well of the airplane.

Actions Since Issuance of Previous Proposal

Since the issuance of the original NPRM, we have received reports that certain operators were unable to accomplish certain corrective and other specified actions in accordance with Boeing Alert Service Bulletin MD80–29A068, Revision 02, dated November 19, 2002, which the original NPRM referred to as the appropriate source of service information for the proposed actions in that NPRM. Investigation revealed that certain instructions and illustrations in that service bulletin were missing or inconsistent.

Explanation of New Relevant Service Information

Boeing has issued Alert Service Bulletin MD80–29A070, dated August 3, 2004. This service bulletin states that it supersedes but does not cancel the actions specified in Boeing Alert Service Bulletin MD80–29A068. Boeing Alert Service Bulletin MD80–29A070 corrects part numbers, clarifies instructions, revises illustrations, and incorporates instructions for additional wiring routing and protection. Specifically, that service bulletin describes procedures for doing a one-time visual inspection for chafing or signs of arcing of the wire bundle for the auxiliary hydraulic pump. The inspection area begins at the P1–32 plug and ends at the point of exit at the fuel tank bulkhead. The service bulletin also describes procedures for the following corrective and other specified actions:

- Repairing chafed or damaged wiring, or replacing it with new wiring, as applicable.
- Installing protective sleeving on the wire bundle.
- Changing the routing of the wire bundle for the auxiliary hydraulic pump and adding additional clamps.
- Adding snap tubing on a portion of the wire bundle.
- Replacing the existing connector backshell with a 90-degree backshell, if necessary.

Doing the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Clarification of Inspection Terminology

Boeing Alert Service Bulletin MD80–29A070 specifies visually inspecting the wire bundle for the auxiliary hydraulic pump for chafing or signs of arcing. This supplemental NPRM refers to this inspection as a general visual inspection. Note 1 of this supplemental NPRM defines a general visual inspection.

Comments

We have considered the comments received in response to the original NPRM.

Support for the Proposed AD

One commenter supports the original NPRM.

Request To Revise Cost Impact Estimate

One commenter states that it expects the cost of accomplishing the proposed AD on its 362 affected airplanes to be approximately $198,000, or $547 per airplane. Because the commenter's figure is significantly higher than the $288-per-airplane cost estimated in the original NPRM, we infer that the commenter is requesting that we revise the cost impact estimate in this supplemental NPRM.

We acknowledge the figures submitted by the commenter and note that the estimated number of work hours and the parts cost have increased in Boeing Alert Service Bulletin MD80–29A070. We have revised the cost impact estimate in this supplemental NPRM accordingly. Also, after the proposed AD was issued, we reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we have increased the labor rate used in these calculations from $60 per work hour to $65 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

Conclusion

Since certain changes discussed above expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

There are approximately 1,063 airplanes of the affected design in the worldwide fleet. We estimate that 732 airplanes of U.S. registry would be affected by this proposed AD, that it would take up to 12 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $65 per work hour. Required parts would cost up to $339 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be up to $819,108, or up to $1,119 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 2001–NM–387–AD.

Applicability: Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes; certificated in any category; identified in Boeing Alert Service Bulletin MD80–29A070, dated August 3, 2004.

Compliance: Required as indicated, unless accomplished previously.

To prevent shorted wires or arcing at the auxiliary hydraulic pump, which could result in loss of auxiliary hydraulic power, or a fire in the wheel well of the airplane, accomplish the following:

One-Time Inspection

(a) Within 18 months after the effective date of this AD, do a one-time general visual inspection for chafing or signs of arcing of the wire bundle for the auxiliary hydraulic pump, and do all applicable corrective and other specified actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD80–29A070, dated August 3, 2004. Accomplish any applicable corrective actions before further flight after the inspection.

Note 1: For the purposes of this AD, a general visual inspection is: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Alternative Methods of Compliance

(b) In accordance with 14 CFR 39.19, the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, is authorized to approve alternative methods of compliance for this AD.

Issued in Renton, Washington, on April 21, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–8657 Filed 4–29–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21087; Directorate Identifier 2005–NM–019–AD]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to all BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes. The existing AD requires operators to determine the number of flight cycles accumulated on each component of the main landing gear (MLG) and the nose landing gear (NLG), and to replace each component that reaches its life limit with a serviceable component. The existing AD also requires operators to revise the Airworthiness Limitations section (ALS) of the Instructions for Continued Airworthiness in the aircraft maintenance manual to reflect the new life limits. This proposed AD would require revising the ALS to incorporate extended and more restrictive life limits for structurally significant items. This proposed AD is prompted by engineering analysis of fleet operations which resulted in more restrictive life limits. We are proposing this AD to prevent failure of certain structurally significant items, including the MLG and the NLG, which could result in reduced structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by June 1, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- *DOT Docket Web Site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide Rulemaking Web Site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21087; the directorate identifier for this docket is 2005–NM–019–AD.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21087; Directorate Identifier 2005–NM–019–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can

review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov.*

Examining the Docket

You can examine the AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

On June 16, 2004, we issued AD 2004–13–07, amendment 39–13689 (69 FR 38816, June 29, 2004), for all BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes. That AD currently requires operators to determine the number of flight cycles accumulated on each component of the main landing gear (MLG) and the nose landing gear (NLG), and to replace each component that reaches its life limit with a serviceable component. That AD also requires operators to revise the Airworthiness Limitations section (ALS) of the Instructions for Continued Airworthiness in the aircraft maintenance manual (AMM) to reflect the new life limits. That AD was prompted by analysis that establishing a life limit for each component of the landing gear units, and replacing the component when it reaches its life limit were necessary. We issued that AD to prevent failure of certain components of the MLG and the NLG, which could result in failure of either or both landing gears, and consequent damage to the airplane and injury to passengers or crewmembers.

Actions Since Existing AD Was Issued

Since we issued AD 2004–13–07, the Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, issued British airworthiness directive G–2004–0005, dated February 3, 2005. The British airworthiness directive mandates incorporation of British Aerospace Jetstream Series 4100 AMM, Chapter 05–10–10, to Airworthiness Limitations—Description and Operation Section, Revision 23 (or later EASA approved revision). The revised section affects all BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes. That section provides mandatory replacement times and structural inspection intervals approved by EASA under Joint Aviation Requirements and the Federal Aviation Regulations (14 CFR 25.571).

Relevant Service Information

BAE Systems (Operations) Limited has issued Chapter 05–10–10, Revision 23, dated February 15, 2005, which is a revision to the British Aerospace Jetstream Series 4100 AMM. That chapter is confined to structurally significant items only and gives mandatory replacement times, structural inspection intervals, and related structural inspection procedures for the MLG and NLG.

The revision to Chapter 05–10–10 describes inspections and compliance times with extended and more restrictive life limits for structurally significant items for inspection and replacement actions. Accomplishment of those actions will preclude the onset of fatigue damage of certain structural elements of the airplane.

The CAA has approved Chapter 05–10–10, Revision 23, of the AMM to ensure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Determination and Requirements of the Proposed AD

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. We have examined the CAA's findings, evaluated all pertinent information, and determined that AD action is necessary for airplanes of this type design that are certificated for operation in the United States.

This proposed AD would supersede AD 2004–13–07. This proposed AD would retain the requirements of the existing AD. This proposed AD would also require revising the ALS of the Instructions for Continued Airworthiness in the AMM to incorporate extended and more restrictive life limits for structurally significant items.

Difference Between This Proposed AD and British Airworthiness Directive

The British airworthiness directive requires doing the AFM revision ''from the effective date'' of its airworthiness directive. This proposed AD, however, would require doing the AFM revision within a compliance time of 30 days. In developing an appropriate compliance time for this AD, we considered the degree of urgency associated with the subject unsafe condition and the time necessary to perform the AFM revision (1 hour). In light of these factors, we find that the compliance time in the proposed AD represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety.

Change to Existing AD

This proposed AD would retain all requirements of AD 2004–13–07. Since AD 2004–13–07 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2004–13–07	Corresponding requirement in this proposed AD
Paragraph (a)	Paragraph (f).
Paragraph (b)	Paragraph (g).
Paragraph (c)	Paragraph (h).
Paragraph (d)	Paragraph (i).
Paragraph (e)	Paragraph (j).
Paragraph (f)	Paragraph (k).

Costs of Compliance

This proposed AD would affect about 57 airplanes of U.S. registry.

The actions that are required by AD 2004–13–07, and retained in this proposed AD, would take approximately 1 work hour per airplane to accomplish the required determination of the number of flight cycles, and 1 work hour per airplane to accomplish the required revision of the aircraft maintenance manual. The average labor rate is $65 per work hour. Based on these figures, the estimated cost of the currently required actions is $130 per airplane.

The proposed new revision of the AMM would take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the new revision of the AMM specified in this proposed AD for U.S. operators is $3,705, or $65 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing amendment 39–13689 (69 FR 38816, June 29, 2004) and adding the following new airworthiness directive (AD):

BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Docket No. FAA–2005–21087; Directorate Identifier 2005–NM–019–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by June 1, 2005.

Affected ADs

(b) This AD supersedes AD 2004–13–07, amendment 39–13689 (69 FR 38816, June 29, 2004).

Applicability

(c) This AD applies to all BAE Systems (Operations) Limited Jetstream Model 4101 airplanes, certificated in any category.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (m) of this AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in Advisory Circular (AC) 25–1529.

Unsafe Condition

(d) This AD was prompted by engineering analysis of fleet operations which resulted in more restrictive life limits. We are issuing this AD to prevent failure of certain structurally significant items, including the main landing gear and the nose landing gear, which could result in reduced structural integrity of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Restatement of Requirements of AD 2004–13–07:

Determine Flight Cycles for Components

(f) Within 90 days after August 3, 2004 (the effective date of AD 2004–13–07): Determine the number of flight cycles accumulated on each landing gear component listed in Table 1 and Table 2 of the Accomplishment Instructions of BAE Systems (Operations) Limited Service Bulletin J41–32–078, dated April 12, 2002. If there are no records or incomplete records for any component, establish the number of flight cycles in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Service Bulletin J41–05–001, Revision 2, dated March 15, 2002; or Revision 3, dated January 1, 2004.

Note 2: BAE Systems (Operations) Limited Service Bulletin J41–32–078 refers to BAE Systems (Operations) J41 Service Information Leaflet 32–15, Issue 1, dated February 15, 2002, as an additional source of service information for establishing the life limits of landing gear components and for tracking the accumulated life of each component.

Replace Components

(g) Except as provided by paragraph (h) of this AD, within 60 days after establishing the flight cycles per paragraph (f) of this AD: Replace any landing gear component that has reached the life limit determined by paragraph (f) of this AD, with a serviceable component per a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Civil Aviation Authority (CAA) (or its delegated agent). Doing the actions in chapter 32 of the applicable airplane maintenance manual (AMM) is one approved method. Thereafter, replace any component that reaches its life limit prior to the accumulation of the applicable number of flight cycles shown in Table 1 and Table 2 of the Accomplishment Instructions of BAE Systems (Operations) Limited Service Bulletin J41–32–078, dated April 12, 2002.

(h) Any component for which the total accumulated life cycles has not been established, or that has exceeded its life limit, but has not yet been replaced per paragraph (g) of this AD, must be replaced within 72 months after August 3, 2004, in accordance with BAE Systems (Operations) Limited Service Bulletin J41–32–078, dated April 12, 2002.

Revise Aircraft Maintenance Manual (AMM)

(i) Within 30 days after August 3, 2004: Revise the Airworthiness Limitations section of the Instructions for Continued Airworthiness of the Jetstream 4100 AMM to include the life limits of the components listed in Table 1 and Table 2 of the Accomplishment Instructions of BAE Systems (Operations) Limited Service Bulletin J41–32–078, dated April 12, 2002. This may be accomplished by inserting a copy of the service bulletin in the Airworthiness Limitations section (ALS) of the Instructions for Continued Airworthiness until such time as a revision is issued. Thereafter, except as provided in paragraph (m) and (l) of this AD, no alternative replacement times may be approved for any affected component. Once the AMM revision required by paragraph (l) of this AD is accomplished, the AMM revision required by this paragraph must be removed from the AMM.

Parts Installation

(j) As of August 3, 2004, no landing gear unit may be installed on any airplane unless the accumulated flight cycles of all components of that landing gear have been established per paragraph (f) of this AD, and any component that has exceeded its life limit has been replaced per paragraph (g) of this AD.

Actions Accomplished per Previous Issue of Service Bulletin

(k) Calculations of total accumulated flight cycles accomplished per BAE Systems (Operations) Limited Service Bulletin J41–05–001, Revision 1, dated April 10, 2001; or BAE Systems (Operations) Limited Service

Bulletin J41–05–001, Revision 2, dated March 15, 2002; are considered acceptable for compliance with the corresponding action specified in this AD.

New Requirements of This AD

Revise Airplane Maintenance Manual (AMM)

(l) Within 30 days after the effective date of this AD: Revise the ALS of the Instructions for Continued Airworthiness of the Jetstream 4100 AMM to include the life limits of the components listed in British Aerospace Jetstream Series 4100 AMM, Chapter 05–10–10, to Airworthiness Limitations—Description and Operation Section, Revision 23, dated February 15, 2005. This may be accomplished by inserting a copy into the Airworthiness Limitations of the Instructions for Continued Airworthiness. Thereafter, except as provided in paragraph (m) of this AD, no alternative replacement times may be approved for any affected component. Once this AMM revision is included, the AMM revision required by paragraph (i) of this AD must be removed from the AMM.

Alternative Methods of Compliance (AMOCs)

(m) The Manager, International Branch, ANM–116, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Related Information

(n) British airworthiness directive G–2004–0005, dated February 3, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on April 21, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–8656 Filed 4–29–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21085; Directorate Identifier 2004–NM–252–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Boeing Model 727 airplanes. This proposed AD would require a one-time inspection of the lower lobe frames of body section 43 to find open holes between stringers 17L and 17R; repetitive high frequency eddy current (HFEC) inspections for cracks of all open holes; and related investigative and corrective actions if necessary. The proposed AD also would include the optional terminating action of installing rivets in all open tooling holes and all unused lining holes, which would terminate a repetitive open-hole HFEC inspection once a hole is plugged with a rivet. This proposed AD is prompted by reports of cracks at open tooling holes in the lower lobe frames of body section 43. We are proposing this AD to detect and correct cracks in the frames, which could result in cracks in the skin panels and rapid decompression of the airplane.

DATES: We must receive comments on this proposed AD by June 16, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- *DOT Docket Web Site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide Rulemaking Web Site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- *By Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–21085; the directorate identifier for this docket is 2004–NM–252–AD.

FOR FURTHER INFORMATION CONTACT: Daniel F. Kutz, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6456; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21085; Directorate Identifier 2004–NM–252–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov*.

Examining the Docket

You can examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

We have received a report of cracks at open tooling holes in 20 lower lobe frames of body section 43 on Boeing Model 727 series airplanes. The cracks were found during fatigue tests, and initiated at open tooling holes in the frame webs between stringers 17L and 17R. The cracks were caused by cyclic pressurization and fatigue loading. This condition, if not corrected, could result in cracks in the frames, which could result in cracks in the skin panels and rapid decompression of the airplane.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 727–53A0227, dated September 16, 2004. The service bulletin describes procedures for doing the following inspections:

• A general visual inspection of the lower lobe frames of body section 43 to find open holes between stringers 17L and 17R.

• High frequency eddy current (HFEC) inspections for cracks of all open tooling holes.

The service bulletin recommends that operators record the locations of all open holes for reference during modification. These open holes include open tooling holes and any lining holes between 0.156 and 0.166 inch in diameter that operators may find when removing the cargo compartment lining.

If any crack of an open hole is found during any inspection, the service bulletin describes procedures for corrective and related investigative actions. If the crack is less than 0.063 inch in length, the service bulletin describes procedures for drilling the hole to an oversize dimension, performing further HFEC inspections to determine when all cracks have been removed, and installing a rivet in the open hole. If the crack is 0.063 inch in length or greater, the service bulletin recommends repairing the crack according to a method approved by the FAA. The service bulletin notes that Chapter 51–40–3 or Chapter 53–10–4 of the Boeing 727 Structural Repair Manual (SRM) are acceptable methods approved by the FAA.

The service bulletin also describes, in ''Part 2—Modification,'' procedures for plugging all open tooling holes and all unused lining holes with rivets, which would end the need for the repetitive inspections for those plugged holes. This modification includes drilling the hole to an oversize dimension, performing further HFEC inspections of cracked holes to determine when all cracks have been removed, and installing a rivet in the open hole.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

Other Related Rulemaking

On September 5, 1990, we issued AD 90–20–14, amendment 39–6730 (55 FR 37864, October 23, 1990), applicable to certain Boeing Model 727 series airplanes, which requires repetitive visual inspections of the forward cargo compartment sidewall frames for cracks, and repair if necessary. The actions required by that AD are intended to detect and correct cracks in the forward cargo compartment sidewall frames. AD 90–20–14 does not affect the requirements of this AD. However, the inspections in Boeing Alert Service Bulletin 727–53A0227 are an alternative method of compliance (AMOC) for the detailed inspections required by paragraph A. of AD 90–20–14. Inspection thresholds and repeat intervals in AD 90–20–14 are not included in or affected by this AMOC.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service bulletin described previously, except as discussed under ''Difference Between the Proposed AD and the Service Bulletin.'' This proposed AD also would provide for optional terminating action for the repetitive inspections.

The proposed AD would allow repetitive inspections to continue in lieu of the terminating action. In making this determination, we considered that long-term continued operational safety in this case will be adequately ensured by repetitive inspections to detect cracking before it represents a hazard to the airplane.

Difference Between the Proposed AD and the Service Bulletin

The service bulletin specifies that you may contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require you to repair those conditions in one of the following ways:

• Using a method that we approve; or

• Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization whom we have authorized to make those findings.

Costs of Compliance

There are about 1,038 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 616 airplanes of U.S. registry. The proposed inspection would take between 8 and 15 work hours per airplane per inspection cycle, depending on the configuration of the airplane. The average labor rate is $65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is between $320,320 and $600,600, or between $520 and $975 per airplane, per inspection cycle.

For operators that choose to do the optional terminating action of installing rivets in all open tooling holes and all unused lining holes, the actions would take between 13 and 23 work hours per airplane, depending on the configuration of the airplane. The average labor rate is $65 per work hour. Based on these figures, the estimated cost of the optional terminating action is between $845 and $1,495 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2005–21085; Directorate Identifier 2004–NM–252–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by June 16, 2005.

Affected ADs

(b) Accomplishing the inspections in paragraph (g) of this AD is an alternative method of compliance (AMOC) for the inspections required by paragraph A. of AD 90–20–14, amendment 39–6730, if accomplished in accordance with the requirements of paragraph (j)(2) of this AD.

Applicability

(c) This AD applies to all Boeing Model 727 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by reports of cracks at open tooling holes in the lower lobe frames of body section 43. We are issuing this AD to detect and correct cracks in the frames, which could result in cracks in the skin panels and rapid decompression of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Service Bulletin Reference

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of Boeing Alert Service Bulletin 727–53A0227, dated September 16, 2004.

Inspections

(g) Before the accumulation of 40,000 total flight cycles, or within 3,500 flight cycles after the effective date of this AD, whichever occurs later: Do a general visual inspection of the lower lobe frames to find open holes between stringer 17L and stringer 17R of body section 43; and do an HFEC inspection for cracks of all open holes, including lining holes. Repeat the inspections at intervals not to exceed 3,500 flight cycles until the optional terminating action in paragraph (i) of this AD is accomplished. Do all inspections in accordance with the service bulletin.

Corrective Action

(h) If any crack is found during any inspection required by paragraph (g) of this AD: Before further flight, do the applicable corrective action in paragraph (h)(1) or (h)(2) of this AD.

(1) If the crack is less than 0.063 inch in length, do the corrective action and related investigative action in Figure 6 of the service bulletin.

(2) If the crack is 0.063 inch in length or greater, repair the crack according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or according to data meeting the certification basis of the airplane approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. Chapters 51–40–3 and 53–10–4 of the Boeing 727 Structural Repair Manual (SRM) are approved methods. Except for these SRMs, for a repair method to be approved, the approval must specifically reference this AD.

Optional Terminating Action

(i) Installing rivets in all open tooling holes, and all unused lining holes, according to Part 2 of the Work Instructions of the service bulletin terminates the repetitive inspection requirements of paragraph (g) of this AD only for those holes plugged with rivets. Terminating action for the repetitive inspection requirements of paragraph (g) of this AD is not permitted for all lining holes without installed rivets.

AMOCs

(j)(1) The Manager, Seattle ACO, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) The inspection methods specified in paragraph (g) of this AD are AMOCs to the inspection methods required by paragraph A. of AD 90–20–14, amendment 39–6730. Inspection thresholds and repetitive intervals are not included in or affected by this AMOC. All other provisions of AD 90–20–14 that are not specifically mentioned above remain fully applicable and must be met.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by a Boeing Company Authorized Representative who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the approval must specifically refer to this AD.

Issued in Renton, Washington, on April 21, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–8655 Filed 4–29–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21086; Directorate Identifier 2004–NM–217–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, –700C, –800, and –900 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes. This proposed AD would require repetitive inspections of the aft pressure bulkhead web for fatigue cracks, crack indications, discrepant holes, and corrosion, and repair if necessary. This proposed AD is prompted by reports of fatigue cracks in the aft pressure bulkhead web. We are proposing this AD to detect and correct such fatigue cracks, which could result in a rapid decompression of the airplane.

DATES: We must receive comments on this proposed AD by June 16, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- *DOT Docket Web Site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide Rulemaking Web Site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- *By Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC.

This docket number is FAA–2005–21086; the directorate identifier for this docket is 2004–NM–217–AD.

FOR FURTHER INFORMATION CONTACT: Howard Hall, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6430; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21086; Directorate Identifier 2004–NM–217–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov.*

Examining the Docket

You can examine the AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

We have received reports indicating that fatigue cracks were found in the aft pressure bulkhead web on Boeing Model 737–200 and –300 series airplanes. The fatigue cracks ran in the circumferential direction along the aft row of fasteners connecting the web assembly to the bulkhead ''Y'' chord. Fatigue cracks in the aft pressure bulkhead web, if not detected and corrected in a timely manner, could result in a rapid decompression of the airplane.

The aft pressure bulkhead webs on Model 737–600, –700, –700C, –800, and –900 series airplanes are identical to those on the affected Model 737–200 and –300 series airplanes. Therefore, the 737–600, –700, –700C, –800, and –900 models may be subject to the same unsafe condition.

Other Relevant Rulemaking

We have previously issued AD 99–08–23, amendment 39–11132 (64 FR 19879, April 26, 1999), applicable to Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. That AD requires repetitive inspections to detect cracking in the web of the aft pressure bulkhead at body station 1016 at the aft fastener row attachment to the ''Y'' chord; and corrective actions, if necessary.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 737–53A1248, dated September 9, 2004. The service bulletin describes procedures for doing inspections (*i.e.,* detailed inspection and either low-or high-frequency eddy current inspections) of the aft pressure bulkhead web for fatigue cracks, crack indications, discrepant holes, and corrosion, and contacting the manufacturer for repair instructions. The inspections are in the aft pressure bulkhead web along the aft row of fasteners where it attaches to the ''Y'' chord of the body station 1016 bulkhead. The service bulletin specifies initial compliance times of 25,000 total flight cycles and 66,000 total flight cycles, based on which area is to be inspected. Repetitive inspection intervals are every 1,200, 3,800, 6,000, or 12,000 flight cycles. The repetitive intervals are based on which area is inspected and which inspection method is used for that area. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between the AD and the Service Bulletin.''

Differences Between Proposed Rule and Service Bulletin

The service bulletin specifies that you may contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require you to repair those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization who has been authorized by the FAA to make those findings.

Costs of Compliance

There are about 978 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD:

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
LFEC and detailed inspection per inspection, cycle.	8	$65	None	$520 per inspection cycle.	630	$327,600 inspection per cycle.
HFEC and detailed inspection (in lieu of LFEC and detailed inspection), per inspection cycle.	2	65	None	130 per inspection cycle.	630	81,900 per cycle inspection.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2005–21086; Directorate Identifier 2004–NM–217–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by June 16, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by reports of fatigue cracks in the aft pressure bulkhead web. We are issuing this AD to detect and correct such fatigue cracks, which could result in rapid decompression of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Inspections

(f) At the applicable ''Inspection Threshold'' in the table in Part 1.E. ''Compliance'' of Boeing Alert Service Bulletin 737–53A1248, dated September 9, 2004, or within 18 months after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed the applicable ''Inspection Repeat Interval'' in that table: Do the inspections (*i.e.,* detailed inspection and either high-or low-frequency eddy current inspections) of the aft pressure bulkhead web for fatigue cracks, crack indications, discrepant holes, and corrosion, in accordance with the Accomplishment Instructions of the service bulletin.

Corrective Action Difference

(g) If any fatigue crack, crack indication, discrepant hole, or corrosion is found during any inspection required by this AD, before further flight, repair the fatigue crack, crack indication, discrepant hole, and corrosion according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or according to data meeting the certification basis of the airplane approved by an Authorized Representative (AR) for the Boeing Delegation Option Authorization (DOA) Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the approval must specifically reference this AD.

No Reporting

(h) Although the service bulletin references a reporting requirement in the Accomplishment Instructions, that reporting is not required by this AD.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle ACO, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) An AMOC that provides an acceptable level of safety may be used for corrective actions, if it is approved by an AR for the Boeing DOA Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Issued in Renton, Washington, on April 25, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–8654 Filed 4–29–05; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R04–OAR–2004–KY–0003–200502e; FRL–7906–4]

Approval and Promulgation of Implementation Plans for Kentucky: Inspection and Maintenance Program Removal for Northern Kentucky; Commercial Motor Vehicle and Mobile Equipment Refinishing Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: EPA is extending the comment period for a proposed rule published April 4, 2005 (70 FR 17029). On April 4, 2005, EPA proposed an approval of four related revisions to the Kentucky State Implementation Plan submitted by the Commonwealth of Kentucky on November 12, 2004. These revisions affect the Northern Kentucky area, which is comprised of the Kentucky Counties of Boone, Campbell, and Kenton, and is part of the Cincinnati-Hamilton Metropolitan Statistical Area. In response to a request from the Kentucky Resources Council, EPA is extending the comment period for 14 days.

DATES: The comment period is extended until May 18, 2005.

ADDRESSES: Comments should be submitted to: Michele Notarianni, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Phone: (404) 562–9031. E-mail: *notarianni.michele@epa.gov.* Additional instructions to comment can be found in the notice of proposed rulemaking published April 4, 2005 (70 FR 17029).

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Phone: (404) 562–9031. E-mail: *notarianni.michele@epa.gov.*

Dated: April 21, 2005.

A. Stanley Meiburg,

Acting, Regional Administrator, Region 4.

[FR Doc. 05–8705 Filed 4–29–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[R07–OAR–2005–IA–0002; FRL–7906–8]

Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Iowa for the purpose of clarifying that only untreated wood, seeds, pellets and other vegetative matter may be burned in fuel burning equipment and residential heating units; to remove a reference to a boiler that was removed at a power and water facility, and to clarify the language with regard to continuous emissions monitoring. One administrative correction to the operating permit program is also included in this revision. Approval of these revisions will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's revised air program rules.

DATES: Comments on this proposed action must be received in writing by June 1, 2005.

ADDRESSES: Comments may be mailed to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Comments may also be submitted electronically or through hand delivery/courier; please follow the detailed instructions in the **ADDRESSES** section of the direct final rule which is located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551–7039, or by e-mail at *Hamilton.heather@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: April 22, 2005.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 05–8709 Filed 4–29–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[R07–OAR–2005–MO–0004; FRL–7906–6]

Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a revision to the Missouri State Implementation Plan (SIP) and Operating Permits Program. EPA proposes to approve a revision to the Missouri rule entitled ''Submission of Emission Data, Emission Fees, and Process Information.'' This revision will ensure consistency between the state and the Federally-approved rules.

DATES: Comments on this proposed action must be received in writing by June 1, 2005.

ADDRESSES: Comments may be mailed to Leland Daniels, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Comments may also be submitted electronically or through hand delivery/courier; please follow the detailed instructions in the Addresses section of the direct final rule which is located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Leland Daniels at (913) 551–7651, or by e-mail at *daniels.leland@epa.gov*.

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal**

Register, EPA is approving the state's submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: April 22, 2005.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 05–8704 Filed 4–29–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7905–6]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Lower Ecorse Creek Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency, (EPA) Region V is issuing a notice of intent to delete the Lower Ecorse Creek (LEC) Superfund Site (Site) located in Wyandotte, Michigan, from the National Priorities List (NPL) and requests public comments on this notice of intent to delete. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Michigan, through the Michigan Department of Environmental Quality, have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund. In the ''Rules and Regulations'' Section of today's **Federal Register**, we are publishing a direct final notice of deletion of the LEC Superfund Site without prior notice of intent to delete because we view this as a non-controversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final notice of deletion. If we receive no adverse comment(s) on this notice of intent to delete or the direct final notice of deletion, we will not take further action on this notice of intent to delete. If we receive timely adverse comment(s), we will withdraw the direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on adverse comments received on this notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this Site must be received by June 1, 2005.

ADDRESSES: Written comments should be addressed to: Cheryl Allen, Community Involvement Coordinator, U.S. EPA (P–19J), 77 W. Jackson, Chicago, IL 60604, 312–886–4360 or 1–800–621–8431.

FOR FURTHER INFORMATION CONTACT: Timothy Prendiville, Remedial Project Manager at (312) 886–5122, or Gladys Beard, NPL State Deletion Process Manager at (312) 886–7253 or 1–800–621–8431, Superfund Division, U.S. EPA (SR–6J), 77 W. Jackson, IL 60604.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following address: EPA Region V Library, 77 W. Jackson, Chicago, IL 60604, (312) 353–5821, Monday through Friday 8 a.m. to 4 p.m.; Bacon Memorial Public Library, 45 Vinewood, Wyandotte, MI, 54656, (734) 246–8357, Monday through Friday 10 a.m. to 9 p.m.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: April 20, 2005.

Norman Niedgang,

Acting Regional Administrator, U.S. EPA Region V.

[FR Doc. 05–8602 Filed 4–29–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AU13

Migratory Bird Hunting; Application for Approval of Tungsten-Copper-Tin-Iron Shot as Nontoxic for Hunting Waterfowl and Coots

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The U.S. Fish and Wildlife Service (Service) hereby provides public notice that the Olin Corporation of East Alton, Illinois, has applied for approval of 60 percent tungsten, 35.1 percent copper, 3.9 percent tin, and 1 percent iron shot as nontoxic for waterfowl hunting in the United States. The Service has initiated review of the shot under the criteria set out in Tier 1 of the nontoxic shot approval procedures given at 50 CFR 20.134.

DATES: A comprehensive review of the Tier 1 information is to be concluded by July 1, 2005.

ADDRESSES: The Olin, Inc. application and the Administrative Record for this application may be reviewed, by appointment, in Room 4091 at the Fish and Wildlife Service, Division of Migratory Bird Management, 4501 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: George T. Allen, Wildlife Biologist, Division of Migratory Bird Management, (703) 358–1825.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of 1918 (Act)

(16 U.S.C. 703–711) and the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 712) implement migratory bird treaties between the United States and Great Britain for Canada (1916 and 1996 as amended), Mexico (1936 and 1972 as amended), Japan (1972 and 1974 as amended), and Russia (then the Soviet Union, 1976). These treaties protect certain migratory birds from take, except as permitted under the Acts. The Acts authorize the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, the U.S. Fish and Wildlife Service controls the hunting of migratory game birds through regulations in 50 CFR part 20.

Since the mid-1970s, the Service has sought to identify types of shot for waterfowl hunting that are not toxic to migratory birds or other wildlife when ingested. We have approved several types of shot as nontoxic and added them to the migratory bird hunting regulations in 50 CFR 20.21. Use of shot types other than those listed in 50 CFR 20.21(j)(1) for hunting waterfowl and coots and any species that make up aggregate bag limits is prohibited. We will continue to review all shot types submitted for approval as nontoxic.

Olin has submitted its application with the counsel that it contained all of the specified information for a complete Tier 1 submittal, and has requested unconditional approval pursuant to the Tier 1 timeframe. The Service has determined that the application is complete, and has initiated a comprehensive review of the Tier 1 information. After the review, the Service will either publish a Notice of Review to inform the public that the Tier 1 test results are inconclusive or publish a proposed rule for approval of the candidate shot. If the Tier 1 tests are inconclusive, the Notice of Review will indicate what other tests will be required before we will again consider approval of the Tungsten-Copper-Tin-Iron shot as nontoxic. If the Tier 1 data review results in a preliminary determination that the candidate material does not pose a significant toxicity hazard to migratory birds, other wildlife, or their habitats, the Service will commence with a rulemaking proposing to approve the candidate shot.

Dated: April 22, 2005.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 05–8684 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AT87

Migratory Bird Hunting; Application for Approval of Iron-Tungsten-Nickel as a Nontoxic Shot Material for Hunting Waterfowl and Coots

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The U.S. Fish and Wildlife Service (Service) hereby provides public notice that ENVIRON-Metal, Inc., of Sweet Home, Oregon, has applied for approval of 62 percent iron, 25 percent tungsten, and 13 percent nickel shot as nontoxic for waterfowl hunting in the United States. The Service has initiated review of the shot under the criteria set out in Tier 1 of the nontoxic shot approval procedures given at 50 CFR 20.134.

DATES: A comprehensive review of the Tier 1 information is to be concluded by July 1, 2005.

ADDRESSES: The ENVIRON-Metal, Inc. application may be reviewed in Room 4091 at the Fish and Wildlife Service, Division of Migratory Bird Management, 4501 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: George T. Allen, Wildlife Biologist, Division of Migratory Bird Management, (703) 358–1825.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of 1918 (Act) (16 U.S.C. 703–711) and the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 712) implement migratory bird treaties between the United States and Great Britain for Canada (1916 and 1996 as amended), Mexico (1936 and 1972 as amended), Japan (1972 and 1974 as amended), and Russia (then the Soviet Union, 1976). These treaties protect certain migratory birds from take, except as permitted under the Acts. The Acts authorize the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, the U.S. Fish and Wildlife Service controls the hunting of migratory game birds through regulations in 50 CFR part 20.

Since the mid-1970s, the Service has sought to identify types of shot for waterfowl hunting that are not toxic to migratory birds or other wildlife when ingested. We have approved several types of shot as nontoxic and added them to the migratory bird hunting regulations in 50 CFR 20.21. Use of shot types other than those listed in 50 CFR 20.21(j)(1) for hunting waterfowl and coots and any species that make up aggregate bag limits is prohibited. We will continue to review all shot types submitted for approval as nontoxic.

ENVIRON-Metal has submitted its application with the counsel that it contained all of the specified information for a complete Tier 1 submittal, and has requested unconditional approval pursuant to the Tier 1 timeframe. The Service has determined that the application is complete, and has initiated a comprehensive review of the Tier 1 information. After the review, the Service will either publish a Notice of Review to inform the public that the Tier 1 test results are inconclusive or publish a proposed rule for approval of the candidate shot. If the Tier 1 tests are inconclusive, the Notice of Review will indicate what other tests will be required before we will again consider approval of the Iron-Tungsten-Nickel shot as nontoxic. If the Tier 1 data review results in a preliminary determination that the candidate material does not pose a significant toxicity hazard to migratory birds, other wildlife, or their habitats, the Service will commence with a rulemaking proposing to approve the candidate shot.

Dated: April 22, 2005.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 05–8685 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AU09

Migratory Bird Hunting; Application for Approval of Tungsten-Nickel-Iron Alloys as Nontoxic for Hunting Waterfowl and Coots

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The U.S. Fish and Wildlife Service (Service) hereby provides public notice that ENVIRON-Metal, Inc., of Sweet Home, Oregon, has applied for approval of a range of tungsten-nickel-iron alloys as nontoxic for waterfowl hunting in the United States. The alloys are comprised of 10–70 percent iron,

20–70 percent tungsten, and 10–40 percent nickel. Densities of the shot alloys range from 8.5 grams per cubic centimeter (g/cc) to 13.5 g/cc. The Service has initiated review of the shot alloys under the criteria set out in Tier 1 of the nontoxic shot approval procedures given at 50 CFR 20.134.

DATES: A comprehensive review of the Tier-1 information is to be concluded by July 1, 2005.

ADDRESSES: The ENVIRON-Metal, Inc., application may be reviewed in Room 4091 at the Fish and Wildlife Service, Division of Migratory Bird Management, 4501 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: George T. Allen, Wildlife Biologist, Division of Migratory Bird Management, (703) 358–1825.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of 1918 (Act) (16 U.S.C. 703–711) and the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 712) implement migratory bird treaties between the United States and Great Britain for Canada (1916 and 1996 as amended), Mexico (1936 and 1972 as amended), Japan (1972 and 1974 as amended), and Russia (then the Soviet Union, 1976). These treaties protect certain migratory birds from take, except as permitted under the Acts. The Acts authorize the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, the U.S. Fish and Wildlife Service controls the hunting of migratory game birds through regulations in 50 CFR part 20.

Since the mid-1970s, the Service has sought to identify types of shot for waterfowl hunting that are not toxic to migratory birds or other wildlife when ingested. We have approved several types of shot as nontoxic and added them to the migratory bird hunting regulations in 50 CFR 20.21. Use of shot types other than those listed in 50 CFR 20.21(j)(1) for hunting waterfowl and coots and any species that make up aggregate bag limits is prohibited. We will continue to review all shot types submitted for approval as nontoxic.

ENVIRON-Metal has submitted its application with the counsel that it contained all of the specified information for a complete Tier-1 submittal, and has requested unconditional approval pursuant to the Tier-1 time frame. The Service has determined that the application is complete, and has initiated a comprehensive review of the Tier-1 information. A comprehensive review of the Tier-1 information is to be concluded by July 1, 2005. After the review, the Service will either publish a notice of review to inform the public that the Tier-1 test results are inconclusive or publish a proposed rule for approval of the candidate shot. If the Tier-1 tests are inconclusive, the notice of review will indicate what other tests will be required before we will again consider approval of the Iron-Tungsten-Nickel shot as nontoxic. If the Tier-1 data review results in a preliminary determination that the candidate material does not pose a significant toxicity hazard to migratory birds, other wildlife, or their habitats, the Service will commence with a rulemaking proposing to approve the candidate shot.

Dated: April 22, 2005.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 05–8686 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 70, No. 83
Monday, May 2, 2005

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 26, 2005.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Application for Inspection and Certification of Animal Byproducts.

OMB Control Number: 0579–0008.

Summary of Collection: The Animal and Plant Health Inspection Service (APHIS) on behalf of the Secretary of Agriculture has been delegated the authority (7 U.S.C. 1622, 1624) to establish and implement a system for verifying that the importation and commercial distribution of certain animal byproducts have been processed according to the condition and requirements of the importing country. The laws and regulations that govern the importation and commercial distribution of certain animal byproducts in some foreign countries may require the U.S. exporter to furnish certificates that have been issued or endorsed by APHIS Veterinary Service. These certificates attest to the class and quality of these products, and also attest to the procedures used to process these products for exportation to the receiving country. APHIS will collect information using VS Form 16–24, ''Application for Inspection and Certification of Animal Byproducts.''

Need and Use of the Information: APHIS collects information from applicants requesting that APHIS monitor the processing of the product. After monitoring the processing technique, APHIS certifies that the product was processed according to the conditions and requirements of the importing country. A copy of the form then accompanies the shipment. Without this certification, the importing country would not accept the product, and the applicant would be unable to conduct business with that country.

Description of Respondents: Business or other for-profit.

Number of Respondents: 10.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 5.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 05–8644 Filed 4–29–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket Number FV–05–308]

United States Standards for Grades of Pea Pods

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS), prior to undertaking research and other work associated with official grade standards, is soliciting comments on the possible development of the United States Standards for Grades of Pea Pods. At a 2003 meeting with the Fruit and Vegetable Industry Advisory Committee, AMS was asked to identify commodities that may be better served if grade standards are developed. The standards would provide industry with a common language and uniform basis for trading, thus promoting the orderly and efficient marketing of pea pods.

DATES: Comments must be received by July 1, 2005.

ADDRESSES: Interested persons are invited to submit written comments to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave. SW., Room 1661 South Building, Stop 0240, Washington, DC 20250–0240; Fax (202) 720–8871, E-mail *FPB.DocketClerk@usda.gov.* Comments should make reference to the dates and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: David L. Priester, at the above address or call (202) 720–2185; E-mail *David.Priester@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), as amended, directs and authorizes the Secretary of Agriculture ''To develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.'' AMS is

committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and makes copies of official standards available upon request. The United States Standards for Grades of Fruits and Vegetables that are not requirements of Federal Marketing Orders or U.S. Import Requirements, no longer appear in the Code of Federal Regulations, but are maintained by USDA, AMS, Fruit and Vegetable Programs.

AMS is proposing to establish voluntary United States Standards for Grades of Pea Pods using the procedures that appear in Part 36, Title 7 of the Code of Federal Regulations (7 CFR part 36).

Background

At a 2003 meeting of the Fruit and Vegetable Industry Advisory Committee, AMS was asked to identify fresh fruit and vegetables that may be better served if grade standards are developed. As a result, AMS identified pea pods, or as they are sometimes called snow peas, as a commodity possibly in need of official grade standards. Such standards are used by the fresh produce industry to describe the product they are trading, thus facilitating the marketing of the product. AMS is soliciting comments on the possible development of voluntary standards for pea pods and the probable impact of such possible standards on distributors, processors and growers.

Prior to undertaking detailed work to develop standards, AMS is soliciting comments on the possible development of the United States Standards for Grades of Pea Pods.

This notice provides for a 60-day comment period for interested parties to comment on the possible development of standards. Should AMS conclude that there is a need for the standards, the proposed standards will be published in the **Federal Register** with a request for comments in accordance with 7 CFR part 36.

Authority: 7 U.S.C. 1621–1627.

Dated: April 26, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–8677 Filed 4–29–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Revision and Extension of an Approved Information Collection; Standard Rules Tender Governing Motor Carrier Transportation

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: The Commodity Credit Corporation (CCC) is seeking approval from the Office of Management and Budget (OMB) for a revision and extension of the collection of information used in support of motor carrier transportation services needed to meet domestic and export food assistance program needs.

This information collection will allow CCC to determine the availability of motor freight carriers to meet the motor carrier needs of CCC for the movement of its freight traffic.

DATES: Comments on this notice must be received on or before July 1, 2005 to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Penny Carlson, Acting Chief, Planning and Analysis Division, Kansas City Commodity Office (KCCO), 6501 Beacon Drive, Kansas City, Missouri 64133–4676, telephone (816) 926–6509, fax (816) 926–1648; e-mail *pkcarlson@kcc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Standard Rules Tender Governing Motor Carrier Transportation.

OMB Control Number: 0560–0195.

Expiration Date of Approval: October 31, 2005.

Type of Request: Revision and Extension of a currently approved collection.

Abstract: CCC through the Kansas City Commodity Office (KCCO) solicits bids from transportation companies for the purpose of providing motor carrier transportation of agricultural commodities. Motor Carriers provide over the road trucking that CCC hires to provide transportation services to meet domestic and export program needs. Motor carriers that choose to do business with the KCCO Export Operations Division (EOD) are required to complete and submit the KC–10 (Standard Rules Tender Governing Motor Carrier Transportation). This form is filled out one time only. EOD is collecting information to determine which Motor Carriers meet CCC requirements for hauling agricultural products for CCC.

Estimate of Burden: Public reporting burden for collecting information under this notice is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Transportation Businesses.

Respondents: 143.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 143 hours.

Proposed topics for comment include: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information collected; or (d) ways to minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments regarding this information collection requirement may be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USDA, Washington, DC 20503, and to Penny Carlson, Acting Chief, Planning and Analysis Division, Kansas City Commodity Office, 6501 Beacon Drive, Kansas City, Missouri 64133–4676, telephone (816) 926–6509, fax (816) 926–1648.

All comments will become a matter of public record.

Signed at Washington, DC, on April 25, 2005.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 05–8643 Filed 4–29–05; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Fresh Fruit and Vegetable Program

AGENCY: Food and Nutrition Service, Agriculture.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Nutrition Service's (Agency) intention to request Office of Management and Budget's approval of a new information collection for States and schools that participate in the Fresh Fruit and Vegetable Program. The Agency will collect reports from the states during fiscal years 2005 through 2008.

DATES: Written comments on this notice must be received by July 1, 2005 to be assured of consideration.

ADDRESSES: Comments may be sent to Robert Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 640, Alexandria, VA 22302. Comments will also be accepted via E-Mail submission if sent to *CNDPROPOSAL@FNS.USDA.GOV*. If commenting by E-mail, please include ''Proposed collection, FFVP'' in the subject line.

Comments are invited on : (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate, automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eadie, 703–305–2590.

SUPPLEMENTARY INFORMATION:

Title: Fresh Fruit and Vegetable Program.

OMB Number: To be assigned.

Type of Request: New collection of information.

Abstract: Section 120 of the Child Nutrition and WIC Reauthorization Act of 2004 (the Act) amended Section 18 of the Richard B. Russell National School Lunch Act, 42 U.S.C. 1769(g), to authorize the Fresh Fruit and Vegetable pilot as a permanent program effective July 1, 2004. The Act appropriated $9 million per fiscal year beginning October 1, 2004.

The purpose of the Program is to encourage increased consumption of fresh fruits and fresh vegetables in schools. Schools will submit performance reports to the state on a monthly basis to substantiate their claim for reimbursement. States will submit the performance reports to the Agency on a quarterly basis. States will report their produce purchases and administrative costs.

Respondents: Respondents include: (a) State agencies and (b) schools.

Estimated Number of Respondents: (a) Eleven State agencies and (b) 225 schools.

Estimated Number of Responses per Respondent: Each school will submit monthly reports to the state for a total of 12 responses per year; and states will submit quarterly reports to FNS for a total of 4 responses per year.

Estimate Time Per Response: The reporting burden is estimated to range from 15 minutes for State agencies to 30 minutes for schools. The recordkeeping burden is estimated to be 15 minutes for both State agencies and schools.

Estimated Total Annual Burden Hours: The reporting burden hours are: (a) State government staff (11 State agencies × 4 times/year × 15 minutes) = 11 hours; and (b) schools (225 schools × 12 times/year × 30 minutes) = 1350 hours. The recordkeeping burden hours are: (a) State government staff (11 State agencies × 4 times/year × 15 minutes) = 11 hours; and (b) schools (225 schools × 12 times/year × 15 minutes) = 675 hours.

Dated: April 22, 2005.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. 05–8665 Filed 4–29–05; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tuolumne County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tuolumne County Resource Advisory Committee (RAC) will meet on May 16, 2005 at the City of Sonora Fire Department, in Sonora, California. The primary purpose of the meeting is to review new project proposals. The Committee will view a video ''Communities for Health Forests'', and receive briefings on a concept papers regarding integrated fuels reduction projects, and the national RAC meeting held in Reno, Nevada.

DATES: The meeting will be held May 16, 2005, from 12 p.m. to 3 p.m.

ADDRESSES: The meeting will be held at the City of Sonora Fire Department located at 201 South Shepherd Street, in Sonora, California (CA 95370).

FOR FURTHER INFORMATION CONTACT: Pat Kaunert, Committee Coordinator, USDA, Stanislaus National Forest, 19777 Greenley Road, Sonora, CA 95370 (209) 532–3671; e-mail *pkaunert@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items include: (1) View a video ''Communities for Healthy Forests''; (2) Concept papers regarding integrated fuels reduction projects; (3) National Resource Advisory Committee meeting held in Reno, Nevada; (4) Review new project proposals; (5) public comment. This meeting is open to the public.

Dated: April 26, 2005.

Jerry L. Snyder,

Acting Forest Supervisor.

[FR Doc. 05–8653 Filed 4–29–05; 8:45 am]

BILLING CODE 3410–ED–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Fisheries Finance Program Requirements.

Form Number(s): NOAA Form 88–1.

OMB Approval Number: 0648–0012.

Type of Request: Regular submission.

Burden Hours: 10,000.

Number of Respondents: 1,250.

Average Hours Per Response: 8 hours.

Needs and Uses: NOAA operates a direct loan program to assist in financing certain actions relating to commercial fishing vessels, shoreside fishery facilities, aquaculture operations, and individual fishing quotas. The application information is required to determine eligibility pursuant to 50 CFR Part 253 and to determine the type and amount of assistance requested by the applicant. An annual financial statement is required from recipients to monitor the financial status of the loan.

Affected Public: Business or other for-profit organizations; Individuals or households.

Frequency: Annually and on occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: April 27, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–8662 Filed 4–29–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review;

Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Coastal Impact Assistance Program: Project Review Checklist.

Form Number(s): None.

OMB Approval Number: 0648–0440.

Type of Request: Regular submission.

Burden Hours: 80.

Number of Respondents: 16.

Average Hours Per Response: 5 hours.

Needs and Uses: The Coastal Impact Assistance Program (CIAP) provides funds to seven states and 147 local governments to conduct a variety of projects, including construction and land acquisition. The National Oceanic and Atmospheric Administration (NOAA) must review the projects in accordance with the CIAP legislation before disbursing funds. To expedite review, NOAA developed the CIAP Project Checklist for the construction and land acquisition projects. The Checklist, whose use is voluntary, asks applicants to provide project information to allow NOAA to determine their eligibility under the CIAP as well as eligibility under other relevant statutes (NEPA, etc.).

Affected Public: State, local or tribal government.

Frequency: One time only, occasional.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov.*

Dated: April 27, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–8663 Filed 4–29–05; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

Order No. 1388

Reorganization and Expansion of Foreign–Trade Zone 15, Kansas City, Missouri, Area

Pursuant to its authority under the Foreign–Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign–Trade Zones Board (the Board) adopts the following Order:

Whereas, the Greater Kansas City Foreign–Trade Zone, Inc., grantee of Foreign–Trade Zone 15, submitted an application to the Board for authority to formally delete Site 8A, Site 8B and Site 8C from the zone project and to include a new site in Chillicothe, Missouri (new Site 8, 19.57 acres), adjacent to the Kansas City Customs port of entry (FTZ Docket 27–2004; filed 6/18/04);

Whereas, notice inviting public comment was given in the **Federal Register** (69 FR 35581, 6/25/04) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to reorganize and expand FTZ 15 is approved, subject to the Act and the Board's regulations, including Section 400.28, and subject to the Board's standard 2,000–acre activation limit for the overall zone project, and further subject to a five–year time limit (to April 30, 2010) for the new site with extension available upon review.

Signed at Washington, DC, this 20th day of April 2005.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration, Alternate ChairmanForeign–Trade Zones Board.

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 05–8701 Filed 4–29–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

Order No. 1387

Approval for Manufacturing Authority, Diebold, Inc., (Automated Teller Machines), Within Foreign–Trade Zone 230, Lexington, North Carolina

Pursuant to its authority under the Foreign–Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign–Trade Zones Board (the Board) adopts the following Order:

Whereas, the Piedmont Triad Partnership, grantee of Foreign–Trade Zone 230, has requested authority under § 400.32(b)(2) of the Board's regulations on behalf of Diebold, Inc. to manufacture automated teller machines under zone procedures within Site 1 of FTZ 230 in Lexington, North Carolina (FTZ Docket 42–2004, filed September 16, 2004);

Whereas, notice inviting public comment has been given in the **Federal Register** (69 FR 57262–57263, 9/24/04); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for the manufacture of automated teller machines within Site 1 of FTZ 230, as described in the application, subject to the FTZ Act and

the Board's regulations, including Sec. 400.28.

Signed at Washington, DC, this 20th day of April 2005.

Joseph A. Spetrini,

Acting Assistant Secretaryfor Import Administration, Alternate Chairman, Foreign–Trade Zones Board.

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 05–8700 Filed 4–29–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation;

Opportunity to Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

SUPPLEMENTARY INFORMATION:

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with section 351.213 (2002) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review

Not later than the last day of May 2005, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in May for the following periods:

Antidumping Duty Proceeding	Period
ARGENTINA: Light–walled Rectangular Carbon Steel Pipe and Tubing.	
A–357–802	5/1/04—4/30/05
BELGIUM: Stainless Steel Plate in Coils.	
A–423–808	5/1/04—4/30/05
BRAZIL: Iron Construction Castings.	
A–351–503	5/1/04—4/30/05
BRAZIL: Frozen Concentrated Orange Juice.	
A–351–605	5/1/04—8/4/04
CANADA: Softwood Lumber.	
A–122–838	5/1/04—4/30/05
CANADA: Stainless Steel Plate in Coils.	
A–122–830	5/1/04—4/30/05
Antifriction Bearings, Ball and Spherical Plain.	
A–427–801	5/1/04—4/30/05
GERMANY: Antifriction Bearings, Ball.	
A–428–801	5/1/04—4/30/05
INDIA: Silicomanganese.	
A–533–823	5/1/04—4/30/05
INDIA: Welded Carbon Steel Pipes and Tubes.	
A–533–502	5/1/04—4/30/05
INDONESIA: Extruded Rubber Thread.	
A–560–803	5/1/04—5/20/04
ITALY: Antifriction Bearings, Ball.	
A–475–801	5/1/04—4/30/05
ITALY: Stainless Steel Plate in Coils.	
A–475–822	5/1/04—4/30/05
JAPAN: Antifriction Bearings, Ball.	
A–588–804	5/1/04—4/30/05
JAPAN: Gray Portland Cement and Clinker.	
A–588–815	5/1/04—4/30/05
JAPAN: Stainless Steel Angle.	
A–588–856	5/1/04—4/30/05
KAZAKHSTAN: Silicomanganese.	
A–834–807	5/1/04—4/30/05
REPUBLIC OF KOREA: Malleable Cast Iron Pipe Fittings, Other than Grooved.	
A–580–507	5/1/04—2/27/05
REPUBLIC OF KOREA: Polyester Staple Fiber.	
A–580–812	5/1/04—4/30/05
REPUBLIC OF KOREA: Stainless Steel Angle.	
A–580–846	5/1/04—4/30/05
REPUBLIC OF KOREA: Stainless Steel Plate in Coils.	
A–580–831	5/1/04—4/30/05
SINGAPORE: Antifriction Bearings, Ball.	
A–559–801	5/1/04—4/30/05
SPAIN: Stainless Steel Angle.	
A–469–810	5/1/04—4/30/05
SOUTH AFRICA: Stainless Steel Plate in Coils.	

Antidumping Duty Proceeding	Period
A–791–805	5/1/04—4/30/05
TAIWAN: Certain Circular Welded Carbon Steel Pipe & Tubes.	
A–583–008	5/1/04—4/30/05
TAIWAN: Polyester Staple Fiber.	
A–583–833	5/1/04—4/30/05
TAIWAN: Stainless Steel Plate in Coils.	
A–583–830	5/1/04—4/30/05
THE PEOPLE'S REPUBLIC OF CHINA: Iron Construction Castings.	
A–570–502	5/1/04—4/30/05
THE PEOPLE'S REPUBLIC OF CHINA: Pure Magnesium.	
A–570–832	5/1/04—4/30/05
THE UNITED KINGDOM:Antifriction Bearings, Ball.	
A–412–801	5/1/04—4/30/05
TURKEY: Welded Carbon Steel Pipe and Tube.	
A–489–501	5/1/04—4/30/05
VENEZUELA: Silicomanganese.	
A–307–820	5/1/04—4/30/05
Countervailing Duty Proceedings.	
BELGIUM: Stainless Steel Plate in Coils.	
C–423–809	1/1/04—12/31/04
BRAZIL: Iron Construction Castings.	
C–351–504	1/1/04—12/31/04
CANADA: Softwood Lumber.	
C–122–839	1/1/04—12/31/04
ITALY: Stainless Steel Plate in Coils.	
C–475–823	1/1/04—12/31/04
SOUTH AFRICA: Stainless Steel Plate in Coils.	
C–791–806	1/1/04—12/31/04
Suspension Agreements.	
None..	

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order–by-order basis, which exporter(s) the request is intended to cover.

As explained in Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 69 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. See also the Import Administration web site at http://ia.ita.doc.gov.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Operations, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of May 2005. If the Department does not receive, by the last day of May 2005, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct Customs and Border Protection to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: April 26, 2005.

Holly A. Kuga,

Senior Office Director, AD/CVD Operations, Office 4, for Import Administration.

[FR Doc. E5–2095 Filed 4–29–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (''Sunset'') Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating five-year (''sunset'') reviews of certain antidumping and countervailing duty orders. The International Trade

Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers these same orders.

DATES: *Effective Date:* May 2, 2005.

FOR FURTHER INFORMATION CONTACT: Zev Primor, Office 4, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce at (202) 482–4114, or Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of sunset reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Initiation of Reviews

In accordance with 19 CFR 351.218(c), we are initiating the sunset reviews of the following antidumping and countervailing duty orders and suspended investigation:

DOC case No.	ITC case No.	Country	Product
A–570–855	731–TA–841	PRC	Non-Frozen Apple Juice Concentrate.
A–851–802	731–TA–846	Czech Republic	Small Diameter, Carbon & Alloy Seamless Standard, Line, & Pressure Pipe.
A–588–851	731–TA–847	Japan	Small Diameter, Carbon & Alloy Seamless Standard, Line, & Pressure Pipe.
A–485–805	731–TA–849	Romania	Small Diameter, Carbon & Alloy Seamless Standard, Line, & Pressure Pipe.
A–791–808	731–TA–850	South Africa	Small Diameter, Carbon & Alloy Seamless Standard, Line, & Pressure Pipe.
A–588–850	731–TA–847	Japan	Large Diameter, Carbon & Alloy Seamless Standard, Line, & Pressure Pipe.
A–201–827	731–TA–848	Mexico	Large Diameter, Carbon & Alloy Seamless Standard, Line, & Pressure Pipe.
A–588–810	731–TA–429	Japan	Mechanical Transfer Presses.
A–588–852	731–TA–853	Japan	Structural Steel Beams.
A–580–841	731–TA–854	South Korea	Structural Steel Beams.
C–580–842	701–TA–401	South Korea	Structural Steel Beams.
A–533–806	731–TA–561	India	Sulfanilic Acid.
C–533–807	701–TA–318	India	Sulfanilic Acid.
A–570–815	731–TA–538	PRC	Sulfanilic Acid.
A–570–856	731–TA–851	PRC	Synthetic Indigo.

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the Department's regulations regarding sunset reviews (19 CFR 351.218) and *Sunset Policy Bulletin,* the Department's schedule of sunset reviews, case history information (*i.e.*, previous margins, duty absorption determinations, scope language, import volumes), and service lists available to the public on the Department's sunset Internet website at the following address: ''*http://ia.ita.doc.gov/sunset/*.''

All submissions in these sunset reviews must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303. Also, we suggest that parties check the Department's sunset website for any updates to the service list before filing any submissions. The Department will make additions to and/or deletions from the service list provided on the sunset website based on notifications from parties and participation in these reviews. Specifically, the Department will delete from the service list all parties that do not submit a substantive response to the notice of initiation.

Because deadlines in a sunset review can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties (defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b)) wishing to participate in these sunset reviews must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the orders without further review. *See* 19 CFR 351.218(d)(1)(iii).

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that all parties wishing to participate in the sunset review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of sunset reviews.[1] Please

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to

Continued

consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: April 25, 2005.

Holly A. Kuga,

Senior Office Director, AD/CVD Operations, Office 4 for Import Administration.

[FR Doc. E5–2096 Filed 4–29–05; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–274–804

Notice of Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is initiating a changed circumstances administrative review of the antidumping duty order of carbon and certain alloy steel wire rod (''steel wire rod'') from Trinidad and Tobago[1] in response to a request from the petitioners[2] and respondent, Caribbean Ispat Limited (''CIL''). Both parties have requested that the Department conduct a changed circumstances review to determine whether Mittal Steel Point Lisas Limited (''Mittal'') is the successor–in-interest to CIL, and, as such, is entitled to receive the same antidumping duty treatment accorded CIL.

EFFECTIVE DATE: May 2, 2005.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or Victoria Cho at (202) 482–5973 or (202) 482–5075, respectively; AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background:

On October 29, 2002, the Department published in the **Federal Register** an antidumping duty order on steel wire rod from Trinidad and Tobago. *See Antidumping Order*. The current scope of the merchandise subject to this order was published in the *Notice of Final Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago* 70 FR 12648 (March 15, 2005). One of the companies subject to the investigation was CIL. On March 3, 2005, CIL notified the Department of its name change and stated that on January 31, 2005, CIL legally changed its name to Mittal. *See* March 3, 2005, letter from CIL to the Secretary of Commerce. On March 21, 2005, the petitioners requested that the Department conduct a changed circumstances review to determine whether Mittal is the successor–in-interest to CIL. *See* March 21, 2005, letter from the petitioners to the Secretary of Commerce. On April 6, 2005, CIL requested that the Department initiate and conduct an expedited changed circumstances review to determine for purposes of the antidumping law whether Mittal is the successor–in-interest to CIL. The Department has determined to conduct the review on an expedited basis and preliminarily finds that Mittal is the successor–in-interest to CIL.

Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (''the Act'), the Department will conduct a changed circumstances review upon request from an interested party or receipt of information concerning an antidumping duty order, when either of these shows changed circumstances sufficient to warrant a review of the order. In this case, the Department finds that the information submitted by the petitioners and respondent provides sufficient evidence of changed circumstances to warrant a review to determine whether Mittal is the successor–in-interest to CIL. Thus, in accordance with section 751(b) of the Act, the Department is initiating a changed circumstances review to determine whether Mittal is the successor–in-interest to CIL for purposes of determining antidumping duty liability with respect to imports of steel wire rod from Trinidad and Tobago produced and exported by CIL and whether the order as applied to CIL should apply to subject merchandise manufactured and exported by Mittal.

Furthermore, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notice of initiation of a changed circumstances review and the notice of preliminary results in a single notice, if the Department concludes that expedited action is warranted. In this case, the Department finds that the information submitted provides sufficient evidence of changed circumstances to warrant a review. Furthermore, we determine that expedited action is warranted and we preliminarily find that Mittal is the successor–in-interest to CIL. Because we have concluded that expedited action is warranted, we are combining these notices of initiation and preliminary results.

Preliminary Results

In making a successor–in-interest determination, the Department examines several factors including, but not limited to, changes in: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See, e.g.*, Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber From Japan, 67 FR 58 (Jan. 2, 2002); *Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460, 20462 (May 13, 1992). While no single factor or combination of factors will necessarily provide a dispositive indication of a successor–in-interest relationship, the Department will generally consider the new company to be the successor to the previous company if the new company's resulting operation is not materially dissimilar to that of its predecessor. *See*, *e.g.*, Fresh and Chilled Atlantic Salmon from Norway; Final Results of Changed Circumstances Antidumping Duty Administrative Review, 64 FR 9979 (March 1, 1999); *Industrial Phosphoric Acid from Israel; Final Results of Changed Circumstances Review*, 59 FR 6944 (February 14, 1994). Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the former company, the Department will accord the new company the same antidumping treatment as its predecessor.

In accordance with 19 CFR 351.221(c)(3)(ii), we preliminarily determine that Mittal is the successor–

substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago*, 67 FR 65944 (October 29, 2002) (''*Antidumping Order*)

[2] Gerdau Ameristeel U.S. Inc., ISG Georgetown Inc., Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc.

in-interest to CIL. In its April 6, 2005, submission Mittal provided evidence supporting its claim to be the successor–in-interest to CIL. Documentation attached to Mittal's April 6, 2005, submission shows that the acquisition of LNM Holdings by Ispat International N.V. (CIL's parent company) and the following name change to CIL resulted in little or no change in management, production facility, supplier relationships, or customer base. This documentation consists of: (1) A press release regarding the name change of Ispat International N.V.; (2) Ispat International N.V.'s Prospectus; (3) a certificate of amendment from the Government of Trinidad and Tobago reflecting the name change, and including the articles of amendment, and a copy of the shareholder resolution authorizing the name change; (4) a letter from the Companies Registry of Trinidad and Tobago stating that Mittal and CIL are one and the same legal entity; (5) documentation illustrating that Mittal and CIL have been assigned the same taxpayer file number and maintain the same bank account; (6) organizational charts that illustrate essentially the same management and organizational structure; (7) a listing of CIL's and Mittal's board of directors which are exactly the same; (8) a letter from the lessor stating that Mittal will occupy the same premises and continue CIL's lease under the name of Mittal; (9) a list of CIL's suppliers and a sample letter from Mittal to one of its suppliers explaining that CIL has legally changed its name to Mittal and that there will be no change in corporate identity of the company; and (10) a list of customers identifying the same customers before and after the name change as well as a sample letter to the customers explaining the name change. The documentation described above demonstrates that there was little to no change in management structure, supplier relationships, production facilities, or customer base.

For these reasons, we preliminarily find that Mittal is the successor–in-interest to CIL and, thus, should receive the same antidumping duty treatment with respect to steel wire rod from Trinidad and Tobago as the former CIL.

Public Comment

Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held no later than 44 days after the date of publication of this notice, or the first workday thereafter. Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to the issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 351.303. Persons interested in attending the hearing, if one is requested, should contact the Department for the date and time of the hearing. The Department will publish the final results of this changed circumstances review, in accordance with 19 CFR 351.216(e), including the results of its analysis of issues raised in any written comments.

The current requirement for a cash deposit of estimated antidumping duties on all subject merchandise will continue unless and until it is modified pursuant to the final results of this changed circumstances review.

We are issuing and publishing these results and notice in accordance with sections 751(b)(1) and 777(i)(1) and (2) of the Act and 19 CFR 351.216.

Dated: April 26, 2005.

Barbara E. Tillman,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–2094 Filed 4–29–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–851

Certain Preserved Mushrooms from the People's Republic of China: Extension of Time Limit for Final Results of the Fifth Antidumping Duty Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 2, 2005.

FOR FURTHER INFORMATION CONTACT: Amber Musser at (202) 482–1777, AD/CVD Enforcement, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 2005, the Department of Commerce (''the Department'') published the preliminary results of the fifth administrative review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China. *See Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results and Partial Rescission of Fifth Antidumping Duty Administrative Review*, 70 FR 10965 (March 7, 2005) (''Preliminary Results''). The results of this administrative review are currently due no later than July 5, 2005.

Extension of Time Limit for Final Results of Review

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), the Department shall make a final determination in an administrative review of an antidumping duty order within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within the foregoing time, the administering authority may extend that 120-day period to 180 days. In this case, the Department finds that it is not practicable to complete the final results in the administrative review of certain preserved mushrooms from the PRC within the current time frame due to the need to analyze information found during verifications in March and April 2005.

Therefore, in accordance with sections 751(a)(3)(A) of the Act, the Department is extending the time for completion of the final results of this review until September 6, 2005, which is the next business day after 180 days from the date of the publication of the *Preliminary Results*. Additionally, the deadlines for submitting case briefs and rebuttal briefs are extended. The current deadline for case briefs is May 2, 2005, and the current deadline for rebuttal briefs is May 9, 2005. The Department is extending the deadline for case briefs until June 24, 2005, and for rebuttal briefs until July 1, 2005. A hearing will be scheduled after case briefs and rebuttal briefs have been received.

This notice is issued and published in accordance with Section 751(a)(3)(A) of the Act.

Dated: April 25, 2005.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–2093 Filed 4–29–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904; Binational Panel Reviews: Notice of Termination of Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Consent Motion to Terminate the Panel Review of the final antidumping duty administrative review made by the International Trade Administration, respecting Carbon and Certain Alloy Steel Wire Rod From Canada (Secretariat File No. USA–CDA–2004–1904–02).

SUMMARY: Pursuant to the Notice of Consent Motion to Terminate the Panel Review by the complainants, the panel review is terminated as of April 26, 2005. No panel has been appointed to this panel review. Pursuant to Rule 71(2) of the *Rules of Procedure for Article 1904 Binational Panel Review,* this panel review is terminated.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter was requested and terminated pursuant to these Rules.

Dated: April 26, 2005.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. 05–8642 Filed 4–29–05; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–838]

Notice of Determination Under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Certain Softwood Lumber Products From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: Consistent with section 129 of the Uruguay Round Agreements Act, which governs the Department of Commerce's (the Department's) actions following World Trade Organization (WTO) reports, the Department has calculated new rates with respect to the antidumping duty investigation on certain softwood lumber products from Canada, in order to implement the recommendations of the WTO Appellate Body. On April 27, 2005, the U.S. Trade Representative, after consulting with the Department and Congress, directed the Department to implement this determination. The new rates apply to unliquidated entries of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after April 27, 2005.

EFFECTIVE DATE: April 27, 2005.

FOR FURTHER INFORMATION CONTACT: Constance Handley or Shane Subler, at (202) 482–0631 or (202) 482–0189, respectively; AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On April 2, 2002, the Department published a final determination of sales at less than fair value (LTFV) in the antidumping duty investigation on certain softwood lumber from Canada. See Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products from Canada, 67 FR 15539 (April 2, 2002) (Final Determination) and accompanying Issues and Decision Memorandum. Following an affirmative injury determination issued by the United States International Trade Commission, the Department published an antidumping duty order on this product on May 22, 2002. See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Softwood Lumber Products From Canada, 67 FR 3606 (May 22, 2002).

Subsequently, the Canadian government requested the establishment of a WTO dispute resolution panel (the Panel) to consider various aspects of the Department's final determination in this case. The Panel circulated its report on April 13, 2004. See United States—Final Dumping Determination on Softwood Lumber from Canada, WT/DS264/R (April 13, 2004).

On May 13, 2004, the United States and Canada appealed certain findings and conclusions in the Panel report. The WTO Appellate Body (the Appellate Body) issued its report on August 11, 2004. See United States—Final Dumping Determination on Softwood Lumber from Canada, WT/DS264/AB/R (August 11, 2004) (Appellate Body Report). The Appellate Body Report and the Panel report, as modified by the Appellate Body Report, were adopted by the WTO Dispute Settlement Body (DSB) on August 31, 2004. See Minutes of the Meeting, Dispute Settlement Body, August 31, 2004, WT/DSB/M/175 (Sept. 24, 2004).

On September 27, 2004, the United States indicated to the DSB that it intended to implement a decision consistent with the recommendations and rulings of the DSB. *See* WTO News, *http://www.wto.org/english/news_e/news04_e/dsb_27sep04_e.htm.* On November 5, 2004, pursuant to section 129(b)(2) of the Uruguay Round Agreements Act (URAA), the United States Trade Representative requested that the Department issue a determination that would render the Department's actions in the investigation not inconsistent with the findings of the DSB.

On January 31, 2005, the Department issued its Preliminary 129 Determination.[1] On February 22, 2005, the Department received a joint brief filed by the British Columbia Lumber Trade Council and its constituent associations; the Ontario Forest Industries Association; the Ontario Lumber Manufacturers Association; the Quebec Lumber Manufacturers Association; Abitibi Group; Canfor Corporation; Slocan Forest Products Ltd.; Tembec Inc.; West Fraser Mills Ltd.; and Weyerhaeuser Company (collectively, the Canadian Parties).[2] On

[1] *See* Preliminary Determination Under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Certain Softwood Lumber Products from Canada (Preliminary 129 Determination), accessible at *http://ia.ita.doc.gov/download/section129/Canada-Lumber-129-Prelim-013105.pdf.* This document is also on file in the Central Records Unit, Room B–099 of the main Commerce Building.

[2] *See* letter from the Canadian Parties to the Department, dated February 22, 2005 (Canadian Parties' Brief).

March 7, 2005, the Department received rebuttal comments from the Coalition for Fair Lumber Imports (the Coalition), a domestic interested party.

On April 15, 2005, the Department issued its final Section 129 Determination. *See* Notice of Determination Under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Certain Softwood Lumber Products from Canada. On April 19, 2005, the Department forwarded its final determination to the U.S. Trade Representative. On April 25, 2005, the U.S. Trade Representative held consultations with the Department and the appropriate congressional committees with respect to this determination. On April 27, 2005, in accordance with sections 129(b)(4) and 129(c)(1)(B) of the URAA, the U.S. Trade Representative directed the Department to implement this determination.

Section 129 of the URAA [3] governs the nature and effect of determinations issued by the Department to implement findings by WTO panels and the Appellate Body. Specifically, section 129(b)(2) provides that ''notwithstanding any provision of the Tariff Act of 1930 * * *,'' within 180 days of a written request from the U.S. Trade Representative, the Department shall issue a determination that would render its actions not inconsistent with an adverse finding of a WTO panel or the Appellate Body. *See* 19 U.S.C. 3538(b)(2). The Statement of Administrative Action, U.R.A.A., H. Doc. 316, Vol. 1, 103d Cong. (1994) (SAA), variously refers to such a determination by the Department as a ''new,'' ''second,'' and ''different'' determination. *See* SAA at 1025, 1027. This determination is subject to judicial review separate and apart from judicial review of the Department's original determination. *See* 19 U.S.C. 1516a(a)(2)(B)(vii).

In addition, section 129(c)(1)(B) of the URAA expressly provides that a determination under section 129 applies only with respect to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date on which the U.S. Trade Representative directs the Department to implement that determination. In other words, as the SAA clearly provides, ''such determinations have prospective effect only.'' SAA at 1026. Thus, ''relief available under subsection 129(c)(1) is distinguishable from relief in an action brought before a court or a {North American Free Trade Agreement}(NAFTA) binational panel, where* * * retroactive relief may be available.'' *Id.*

[3] Citation to ''section 129'' refers to section 129 of the URAA, codified at 19 U.S.C. 3538.

Appellate Body Findings and Conclusions

Article 2.4.2 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Antidumping Agreement) provides that there are three means of calculating a dumping margin ''during the investigation phase.'' The agreement states that ''normally'' a margin ''will be established on the basis of a comparison of a weighted average normal value with a weighted average of prices of all comparable export transactions' or that it will be established ''by a comparison of normal value and export prices on a transaction-to-transaction basis.'' The third means of comparison, a comparison of ''a normal value on a weighted average basis with individual export transactions,'' is provided for when certain criteria exist.

In the investigation of softwood lumber from Canada, the Department calculated dumping margins for the investigated respondents using weighted-average-to-weighted-average comparisons. Specifically, the Department compared weighted-average export prices (EPs) or constructed export prices (CEPs) to weighted-average normal values (NV). When the EP or CEP was greater than the NV, the comparison showed no dumping. In these circumstances, the Department did not offset or reduce the amount of dumping found on other comparisons based on the amount by which the EP or CEP exceeded the normal value for distinct comparisons. When the EP or CEP was less than the normal value, the comparison was considered to have revealed dumping. In order to calculate the weighted-average dumping margin, the Department aggregated the amount of dumping found through these comparisons and divided it by the aggregate value of all U.S. sales (regardless of whether they were dumped) to ensure that the results took account of all comparisons and, thus, all U.S. sales, dumped and non-dumped.

In its report, the Appellate Body rejected the United States' arguments (1) that the text of Article 2.4.2 of the Antidumping Agreement did not address the methodology at issue in this investigation; (2) that certain WTO members, including the United States, did not offset their calculations for non-dumped comparisons in their investigation calculations before, during, and following the implementation of the Antidumping Agreement, and that absent language addressing this methodology in the Agreement, members did not negotiate and agree that this methodology should be considered impermissible, and (3) that under Article 17.6 (ii) of the Antidumping Agreement, the Appellate Body was required to find that WTO members which applied this methodology acted in conformity with Article 2.4.2 of the Agreement. *See* paragraphs 107–108 of the Appellate Body Report.

The Appellate Body concluded, at paragraph 108 of its decision, that ''based on the ordinary meaning of Article 2.4.2 read in its context,'' the Department's comparison methodology was ''prohibited when establishing the existence of margins of dumping under the weighted-average-to-weighted-average methodology.'' The Appellate Body did not address the other methodologies provided for in Article 2.4.2, namely * * * ''the transaction-to-transaction methodology'' or * * * ''the weighted-average-to-individual methodology.'' *See id.* at paragraph 63 and 104–105.

Implementation

In light of the Appellate Body's findings and recommendations, we have determined to apply the transaction-to-transaction methodology in this Section 129 Determination. Therefore, the Department is implementing the recommendations and rulings of the DSB as follows.

To determine the dumping margin for each respondent, we matched individual transactions in the U.S. sales database with individual transactions in the home market database. *See also* Comment 7. In seeking to determine which specific home-market transaction would be the most suitable match for a given U.S. transaction, we began our analysis with the model-match characteristics used in our Final Determination. Consistent with our Final Determination, we did not match across product type, species, or grade group.

Because lumber prices were extremely volatile and the market was in a constant state of flux during the period of investigation (POI), we first attempted to find an identical match at the same level of trade on the same day. If no identical match was found, we looked for an identical home-market sale the day before the U.S. sale, then the day after the U.S. sale, and so forth, up to seven days before or after the U.S. sale. We did not match U.S. sales to home market sales that occurred either more than seven days before or more than

seven days after the date of the U.S. sale. If no identical sale was found at the same level or trade, we looked for an identical match at a different level of trade. We then began to look for the most similar sale, based on product characteristics and level of trade, in the same manner.

When sales were equally similar based on product characteristics, we identified the sale with the smallest difference in the variable cost of manufacturing as being the most similar. We did not match sales whose difference in variable cost exceeded 20 percent of the total cost of manufacturing of the U.S. sale.

We limited the window to sales within a two-week time frame because we are looking for a specific sale that represents the best possible match. Given the high level of price volatility, we felt that a window period of any longer than seven days on either side of individual U.S. sales would result in these sales being matched to home market sales made under different market conditions. We note in cases where price volatility is not as important a consideration, it may be more appropriate to use another period, such as the 90/60-day window period used in administrative reviews.

Within these parameters, we found a significant number of instances in which more than one home market sale qualified as an equally appropriate match. In order to identify the most appropriate match among the equally qualified sales, we looked for the sale that was the most similar in quantity to the U.S. sale. Section 773(a)(6)(C)(i) of the Tariff Act of 1930, as amended (the Act), contemplates that the sale quantity may have an effect on price. While the parties did not claim a quantity adjustment in this case, to the extent that the quantity of merchandise sold may affect the price of an individual transaction, we have taken that factor into account by using it as our first ''tie-breaker.''

For all companies, if there was still more than one equally appropriate match, we took customer categories, as reported by the individual respondents, into account. In order to do so, we had to give the customer categories a numerical ranking, to reflect which categories would be considered the most similar. Wherever possible, we attempted to be consistent between companies. For example, we considered wholesalers to be more comparable to distributors than to retailers. Where there were still multiple equally comparable transactions, we looked for the transaction with the most comparable channel of distribution.

When there remained multiple equally comparable transactions, we attempted to distinguish the single most appropriate match based on total movement expenses. Movement is the most significant expense related to the sale of softwood lumber. The amount of movement expenses can be considered indicative of the distance between the customer and the mill, and of the logistical coordination necessary to comply with the delivery terms of the sale. One company, Slocan, reported commissions. Accordingly, for this company, as a ''tie-breaker,'' we also looked at whether or not a commission was paid. We did not consider the total amount of the commission because the commission was price dependent: considering the amount of the commission would result in a match to the sale with the most similar price, rather than one made under the most similar conditions.

The final criterion we used to distinguish among equally comparable transactions was the number of days between payment and shipment. We used the number of days that payment was outstanding rather than the code for terms of sale, because the former more accurately reflects exactly when the customer paid. We did not use indirect selling expenses as a tie-breaker because such expenses are strictly price-dependent. Just as in the case of commissions, relying on indirect selling expenses to define the most similar sale would result in selecting the sale with the closest price as the match, rather than the sale made under the most similar conditions. After we considered these criteria, a small number of U.S. sales still had more than one equally comparable home market match. In these cases, we programmed the computer to select the first observation on the short list of equally comparable sales.

We believe that there are particular benefits from this analysis which do not exist in the context of the weighted-average-to-weighted-average comparisons. It is beyond question that the prices for lumber during the POI in both the United States and Canadian markets were volatile. *See* Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber from Canada, 67 FR 15539 (April 2, 2002), and accompanying Issues and Decision Memorandum at Comment 4 (Softwood Lumber Decision Memo); *see also* Memorandum from Constance Handley, Program Manager, to the File, re: Price Volatility, dated January 28, 2005. To the extent that the sales volume of a particular product varies over time and between the markets, the weighted-average price of any particular product could be skewed toward a period of low prices in one market and toward a period of high prices in the other market. In such a case, the weighted-average margin calculated for that product would not reflect the dumping, or lack of dumping, that may have occurred on the individual sales incorporated into the average. In the transaction-to-transaction analysis, however, the matching of identical or similar merchandise within a narrow time frame allows us to judge more accurately whether dumping was occurring when sales were made under the same market conditions.

With respect to United States law on this issue, section 777A(d)(1)(A)(i) and (ii) of the Act provides that in antidumping investigations, the Department may calculate a dumping margin using either weighted-average-to-weighted-average comparisons or transaction-to-transaction comparisons, with no stated preference.

Congress, in the SAA, stated that ''normally'' the Department will measure dumping margins on the basis of weighted-average-to-weighted-average comparisons. *See* SAA at 842. The SAA states that a transaction-to-transaction analysis ''would be appropriate in situations where there are very few sales and the merchandise sold in each market is identical or very similar or is custom made. However, given past experience with this methodology and the difficulty in selecting appropriate comparison transactions, the Administration expects that the Department will use this methodology far less frequently than the average-to-average methodology. *Id.* at 842–43.

Section 19 CFR 351.414(c) of the Department's regulations, adopted shortly after the URAA came into force, adopted the SAA's preference for weighted-average-to-weighted-average comparisons in investigations, explaining that the Department will only use the transaction-to-transaction means of comparison ''in unusual situations.'' The language of the regulation directly tracks the language of the SAA, and the Department explained in the Preamble to its final regulations that this provision was implemented to reflect the language of the SAA. *See* Preamble, Antidumping and Countervailing Duty Final Rule, 62 FR 27295, 27373–7374 (May 19, 1997) (Preamble). The Department further explained in the Preamble that the reason for this preference was directly tied to difficulties the agency had in the past with regard to the transaction-to-

transaction methodology and concerns about the difficulty of guaranteeing that ''merchandise in both markets'' would be ''identical or very similar'' in order for such a comparison to work appropriately. *Id.* at 27374.

The language of the SAA and the regulations does not prohibit the application of the transaction-to-transaction analysis in this case. First, there are no statutory or regulatory hierarchical criteria which govern the selection of the comparison methodology. The preferences expressed in the SAA and regulations merely indicate that in ''normal'' cases, weighted-average comparisons will be applied. However, among other things, the volatility of prices of subject merchandise and of the product sold in Canada during the POI distinguishes this case from the norm.

Second, the SAA was drafted and implemented in 1994, and the regulations soon followed in 1997. Both of these sources explain that the preference for a weighted-average methodology was based upon past experiences and an expressed difficulty in selecting appropriate comparison transactions. The Department's computer resources have improved greatly in the last few years, and many resource and programming difficulties the Department faced in 1994, and even in 1997, for conducting transaction-to-transaction matching on large databases no longer exist.

Third, when the URAA was negotiated, the Department did not apply an offset for non-dumped sales in antidumping investigations. Consequently, when Congress expressed a preference for weighted-average comparisons and when the Department adopted its regulations, they did so in the context of the Department's long-standing approach of not applying such an offset when making such comparisons. Because the Department is precluded in this instance from not offsetting non-dumped sales after making weighted-average-to-weighted-average comparisons, it is not clear that the stated preferences at the time of the SAA and regulations should continue to apply.

Accordingly, for all of these reasons, we have calculated dumping margins using the transaction-to-transaction methodology. By applying the transaction-to-transaction analysis in this case, we are not intending to implement an approach that applies to all antidumping investigations. As discussed above, the use of this methodology is premised on the combination of facts and circumstances that have led to and support this determination. Moreover, because the Appellate Body Report requires the offset for non-dumped sales only for a weighted-average-to-weighted-average comparison, we have not applied the offset for non-dumped sales in our transaction-to-transaction comparison.

Interested Party Comments

Comment 1: Applicability of the Appellate Body Ruling to a Transaction-to-Transaction Methodology

The Canadian Parties contest the Department's decision in the Preliminary 129 Determination to continue to not make an offset for non-dumped sales under a change from a weighted-average-to-weighted-average dumping calculation methodology to a transaction-to-transaction methodology. According to the Canadian Parties, the Appellate Body's decision on ''zeroing'' is not limited to the weighted-average-to-weighted-average methodology, but extends equally to the transaction-to-transaction methodology. Therefore, the Canadian Parties argue that the Department's determination fails to bring the United States into compliance with its obligations under the Antidumping Agreement.

The Canadian Parties argue that the Department misrepresented the Appellate Body Report when it stated that the report required an offset for non-dumped sales only in the context of a weighted-average-to-weighted-average comparison. They argue that the Appellate Body concluded that ''margins of dumping,'' as used in Article 2.4.2 of the Antidumping Agreement, must take into account the product in question as a whole. The Canadian Parties assert that by employing ''zeroing'' under the transaction-to-transaction methodology, the Department treats dumped transactions differently from non-dumped transactions. Therefore, they maintain that this does not treat the product in question as a whole. In addition, the Canadian Parties contend that the transaction-to-transaction methodology exacerbates the Department's failure to account for the product as a whole by applying ''zeroing'' at the model (control number) level.

The Canadian Parties also maintain that the Panel in dicta already concluded that ''zeroing'' in the context of a transaction-to-transaction methodology would be inconsistent with Article 2.4.2 of the Antidumping Agreement. As they note, the Panel stated, ''We are of the view that the use of zeroing when determining a margin of dumping based on the transaction-to-transaction methodology would not be in conformity with Article 2.4.2 of the AD Agreement.'' [4] Citing the Appellate Body's ruling in EC—Bed Linen [5] and its discussion of ''zeroing'' in United States—Corrosion-Resistant Steel,[6] the Canadian Parties contend that the Appellate Body has concluded that ''zeroing'' denies a ''fair comparison'' between export price and normal value. They argue that the ''fair comparison'' requirement of Article 2.4 applies to both transaction-to-transaction comparisons and weighted-average comparisons.

In response to the Canadian Parties, the Coalition contends that the only issue before the Appellate Body concerned the use of ''zeroing'' under the weighted-average-to-weighted-average comparison methodology. According to the Coalition, the Appellate Body acknowledged that it was not addressing the issue of ''zeroing'' under a transaction-to-transaction methodology or average-to-individual methodology. The Coalition contends that Article 2.4.2 of the Antidumping Agreement prescribes the transaction-to-transaction methodology. Contesting the Canadian Parties' argument that the Appellate Body's interpretation of the Antidumping Agreement ''forbids zeroing,'' the Coalition argues that the Appellate Body's decision precludes the United States from using ''zeroing'' only in conjunction with the weighted-average methodology. Therefore, the Coalition argues that the Preliminary 129 Determination is consistent with the Appellate Body's decision.

The Coalition asserts that the Canadian Parties are attempting to broaden the scope of the Appellate Body's ruling in claiming that the Appellate Body's decision is instructive regarding the use of ''zeroing'' with a transaction-to-transaction methodology. The Coalition contends that the Panel noted that it was not instructing any party when it stated, ''We are mindful that we are not called upon to decide whether zeroing is allowed or disallowed under the transaction-to-transaction and weighted-average-normal-value to individual export

[4] *See* Panel Report, United States—Final Dumping Determination on Softwood Lumber from Canada, WT/DS264/R, adopted as modified by the Appellate Body on 31 Aug. 2004, para. 7.219, n.361.

[5] *See* Report of the Appellate Body, European Communities—Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India, WT/DS141/AB/R, Adopted 12 Mar. 2001, para. 55 (EC—Bed Linen).

[6] *See* Report of the Appellate Body, United States—Sunset Review of Anti-Dumping Duties on Corrosion-Resistant Carbon Steel Flat Products from Japan, WT/DS244/AB/R, adopted 9 Jan. 2004, para. 135 (United States—Corrosion—Resistant Steel).

transaction methodologies.'' [7] Further, the Coalition claims that the Canadian Parties ignore the portion of the Appellate Body's report that states, ''In this appeal, we are not required to, and do not address, the issue of whether zeroing can, or cannot, be used under the other methodologies prescribed in Article 2.4.2, namely, comparing normal value and export prices on a transaction-to-transaction basis (the ''transaction to transaction methodology'') * * *'' [8] According to the Coalition, this demonstrates unambiguously that the Appellate Body declared ''zeroing'' in conjunction with the transaction-to-transaction methodology to be outside of the scope of its review.

Department's position: We disagree with the Canadian Parties. The Canadian Parties have interpreted incorrectly the scope of the determination of the Appellate Body. The Appellate Body identified clearly that ''the precise scope of the appeal'' before it was the Department's methodology ''as applied in the anti-dumping investigation at issue in this case.'' *See* Appellate Body Report at 63 (emphasis included). Furthermore, the Appellate Body stated, without qualification, the following:

> Canada's claim before the Panel was limited to the consistency of zeroing when used in calculating margins of dumping on the basis of a comparison of weighted average normal value with a weighted average of prices of all comparable export transactions (the ''weighted-average-to-weighted-average methodology'') under Article 2.4.2 of the Antidumping Agreement. Therefore, in this appeal, we are not required to, and do not address, the issue of whether zeroing can, or cannot, be used under the other methodologies prescribed in Article 2.4.2, namely, comparing normal value and export prices on a transaction-to-transaction basis (''the transaction-to-transaction methodology''), or comparing a normal value established on a weighted average basis to prices to prices of individual export transactions (the ''weighted-average-to-individual methodology'').

Id. Thus, once it had rendered its decision, the Appellate Body stated that ''we have concluded, based on the ordinary meaning of Article 2.4.2 (of the Antidumping Agreement) read in its context, that zeroing is prohibited when establishing the existence of margins of dumping under the weighted-average-to-weighted-average methodology.'' *See* Appellate Body Report at para. 108.

The Canadian Parties' argument that the Appellate Body's decision applies beyond the weighted-average-to-weighted-average comparison methodology is unpersuasive. Indeed, the Canadian Parties acknowledge that the Panel's statement in a footnote of its report regarding the transaction-to-transaction comparison methodology was only ''in dicta'' and that ''the Appellate Body did not expressly forbid zeroing specifically in conjunction with the transaction-to-transaction methodology.'' *See* Canadian Parties' Brief at 3, 7. Nonetheless, they argue that the Preliminary 129 Determination ''does not comply with the findings of the WTO Appellate Body'' and they state that the Appellate Body's analysis ''extends equally to a transaction-to-transaction comparison methodology that incorporates the practice of zeroing.'' *See* Canadian Parties' Brief at 2–3. The Appellate Body Report contained no such decision. As the Appellate Body clearly indicated, the matter before it was the consistency of the Department's methodology with the United States' obligations under the Antidumping Agreement, as applied in the weighted-average-to-weighted-average analysis in the Final Determination. The Department's Section 129 Determination does not involve ''zeroing'' in a weighted-average-to-weighted-average comparison methodology, in full compliance with the Appellate Body's determination. Thus, this Section 129 Determination renders the Department's analysis ''not inconsistent with the findings of the Appellate Body.'' *See* section 129(b)(2) of the URAA.

Comment 2: Change in Comparison Methodology

Citing the decision by the Court of International Trade (CIT) in Borden,[9] the Canadian Parties assert that the principle of finality in U.S. administrative law prevents the Department from changing the comparison methodology used in the LTFV investigation, which has not been challenged. They argue that section 129 actions are limited to bringing an agency determination into conformity with WTO obligations. Further, they argue that the language of section 129, which authorizes the Department to ''take action not inconsistent with the findings of the panel or the Appellate Body,'' mirrors the language that Congress used with respect to the Department's actions for NAFTA panel remands. This parallel language, the Canadian Parties contend, demonstrates that in section 129 actions the Department may not revisit issues ''not necessary for WTO compliance.'' *See* Canadian Parties'' Brief at 11. Because the Department can comply with the Appellate Body's ruling without changing its comparison methodology, the Canadian Parties' position is that it must do so.

The Coalition argues that the Appellate Body did not direct the Department to make its determination consistent with Article 2.4.2 in a specific manner. The Coalition asserts that Article 2.4.2 expressly authorizes a WTO member to apply the transaction-to-transaction method in an investigation. Therefore, contesting the Canadian Parties' conclusions, the Coalition asserts that the transaction-to-transaction method is permissible under Article 2.4.2 of the Antidumping Agreement, the Act, the SAA, and the Department's regulations.

In addition, the Coalition argues that the Department acted in accordance with the U.S. Court of Appeals for the Federal Circuit's (CAFC's) decision that ''zeroing'' is permissible under sections 771(35)(A) and (B) of the Act.[10]

Department's position: We disagree with the Canadian Parties. Not granting an offset for non-dumped sales has consistently been an integral part of the Department's weighted-average-to-weighted-average analysis. In fact, Canada's challenge to the methodology relied on the language of Article 2.4.2 regarding comparisons between weighted-average export prices and normal values. The Appellate Body Report also relied on language particular to the use of the weighted-average-to-weighted-average comparison methodology in finding an offset requirement. *See, e.g.*, Appellate Body Report at para. 63.

The Canadian Parties' argument that the Department cannot apply a different methodology to implement the findings of the Appellate Body Report is incorrect, because such a reading of the law would, in effect, seriously undermine the effectiveness of section 129(b)(2) of the URAA. As noted above, Congress intended for a determination pursuant to a section 129(b) decision to be a ''new,'' ''second'' or ''different'' determination. *See* SAA at 1025, 1027. Thus, the Department may modify its calculations or methodologies to effectuate its compliance with a WTO decision. Furthermore, the calculations or methodologies that are necessary to

[7] *See* Panel Report, United States—Final Dumping Determination on Softwood Lumber from Canada, at para. 7,219 n.361, WT/DS264/R (April 13, 2004).

[8] *See* Appellate Body Report at para. 63.

[9] See *Borden, Inc.* v. *United States*, 4 F. Supp. 2d 1221, 1242 (Ct. Int'l Trade 1998) *reversed on other grounds Borden, Inc.* v. *United States*, 7 Fed. Appx. 938, 2001 WL 312232 (Fed. Cir. 2001) (Borden).

[10] See *Corus Staal* v. *United States*, 283 F. Supp.2d. 1357 (Fed. Cir. 2005).

implement this decision rest largely with the discretion of the Department, the United States Trade Representative and Congress. The Canadian Parties' interpretation of section 129 would remove discretion from the various governmental bodies in implementing a decision under section 129. Thus, we reject the Canadian Parties' claims that the Department may not modify its comparison methodology and employ a transaction-to-transaction analysis to bring its determination into compliance with the WTO Appellate Body Report.

With respect to the Canadian Parties' arguments involving Borden, we agree that finality is an important aspect of agency proceedings. However, the holding of Borden does not apply in this case. First, and most obviously, Borden involved a remand redetermination, while this case, of course, involves the implementation of a section 129 decision. These are entirely different proceedings, with the first involving implementation of a specific order to the agency from a domestic court. Implementation of a section 129 decision involves multiple governmental agencies that may implement a decision in any manner ''not inconsistent with the recommendation'' of the WTO. Second, in Borden, the Department's level of trade analysis was challenged, an issue that is distinct from the CEP calculations in general. *See* Borden at 1242. In this case, the Department's approach of not offsetting non-dumped sales, only as part of its weighted-average-to-weighted-average comparison methodology, was challenged, and the Department has modified its calculations to address the Appellate Body's concerns. As stated previously, the language of the Antidumping Agreement that provides for this comparison methodology was an integral part of the Appellate Body's basis for finding the ''zeroing'' methodology inconsistent with the Antidumping Agreement. Thus, the facts of Borden do not apply in this case.

Finally, the Canadian Parties argue that ''finality'' is important, and we agree, which is why the agency based its calculations entirely upon the facts of the record already before it. As the CIT explained in *Dupont Teijin Films USA, LP, et. al.* v. *United States*, Slip Op. 2004–70 (June 18, 2004), once a final determination has been made, the agency may only reopen the record and amend its decisions in limited circumstances, such as an ''express granting of relief by the court.'' *Id.* at 13. In this case, Commerce was able to modify its calculations without adding new factual information to the record. Thus, the agency respected the finality of the record in making its determination.

Accordingly, the Department has determined, pursuant to section 129(b)(2), that the transaction-to-transaction methodology is an appropriate methodology to apply in this case in order to bring its determination into conformity with the findings of the Appellate Body.

Comment 3: Requirements under U.S. Law for Use of Transaction-to-Transaction Methodology

Referring to the SAA and 19 CFR 351.414(c), the Canadian Parties contend that both establish a strong preference for the weighted-average-to-weighted-average methodology. The only exceptions established by the SAA and the Department's regulations, the Canadian Parties argue, are for unusual circumstances in which a respondent has very few sales and in which the merchandise in each market is identical, very similar, or custom-made. Contesting the Department's statement in the Preliminary 129 Determination that the transaction-to-transaction method was disfavored in 1997 because of computer programming difficulties, the Canadian Parties contend that the Department's regulations and the SAA do not expressly state this. Further, the Canadian Parties argue that the Department did not address the substantive reason for the preference for the weighted-average methodology. They assert that the transaction-to-transaction method, in contrast to the weighted-average method, creates a bias toward dumping, as the CIT explained in Borden. Furthermore, they contend that the Department's regulations are binding upon it until they are formally amended.

The Coalition contends that section 777A of the Act does not restrict the Department from comparing the normal values of individual transactions to individual export prices or constructed export prices of comparable merchandise. The Coalition also claims that even though the Department's regulations establish a preference for the weighted-average-to-weighted-average method, the regulations do not preclude the Department from applying the transaction-to-transaction method in investigations. Furthermore, the Coalition notes that the SAA states specifically that section 777A(d)(1)(A)(ii) permits the calculation of dumping margins on a transaction-to-transaction basis. Also, according to the Coalition, the SAA states that the URAA establishes a preference for use of a weighted-average or transaction-to-transaction methodology in the investigation phase of an antidumping proceeding.[11]

The Coalition maintains that the Department did not act arbitrarily or abuse its discretion by using the transaction-to-transaction method. In the Preliminary 129 Determination, the Coalition notes, the Department explained that employing the transaction-to-transaction methodology allows it to determine more accurately whether dumping occurred. Further, the Coalition contends that the Department provided a reasonable explanation of why the preference for employing the weighted-average-to-weighted-average method, as stated in the Department's regulations, may no longer apply.

Department's position: We disagree that the Department's application of the transaction-to-transaction methodology is ''contrary to U.S. law'' or that the agency is disregarding the SAA by applying this methodology. *See* Canadian Parties Brief at 12. Both of these statements, and the arguments which follow, are unsupported by the Department's analysis.

As we explain above, sections 777A(d)(1)(A)(i) and (ii) of the Act allow for either weighted-average-to-weighted-average comparisons or transaction-to-transaction comparisons, with no stated preference. Furthermore, the SAA reflects the understanding shared by the Administration and Congress in 1994 that the Department would ''normally'' apply weighted-average-to-weighted-average comparisons in investigations in light of ''past experience'' and difficulties in ''selecting appropriate comparison transactions.'' This position was drafted and implemented over ten years ago, when the Department did not offset for non-dumped sales in its weighted-average-to-weighted-average comparisons in antidumping investigations and when computer technology was inferior to the computer technology of 2005. *See* SAA at 842–43. Thus, the concerns about ''past experiences'' do not require the Department to simply use a ''modified'' weighted-average-to-weighted-average methodology championed by the Canadian Parties. Furthermore, earlier concerns about difficulties in selecting appropriate matching characteristics are addressed to a great extent through modern computer technology. Similarly, the Department's regulations, as reflected in 19 CFR 351.414(c), were drafted in 1996 and implemented in 1997, and mirror the same concerns expressed in the SAA. It should also be

[11] *See* SAA at 842–843 (emphasis added).

noted that the regulation uses the term ''normally'' in stating the preference for the weighted-average-to-weighted-average methodology, indicating that other methodologies may be used.

Despite the Canadian Parties' claims, the Department is not ''disregarding the SAA'' or its regulations in its Section 129 Determination. Instead, as the agency has explained above, the normal presumptions of the Department's methodologies, as stated in the SAA and the regulations, do not apply in this case.

The United States explained first to the Panel, and then to the Appellate Body, that the Department's methodology when the URAA was signed into law in 1994 was to not offset for non-dumped sales as part of the weighted-average-to-weighted-average methodology in investigations. The United States argued that because the Antidumping Agreement is silent on this issue, it did not believe that its methodology was inconsistent with its international obligations. The Appellate Body disagreed with this assessment of the United States' obligations. Nonetheless, this analysis is clearly relevant with respect to the claim under the SAA and the regulations that the Department ''normally'' will apply a particular methodology. What was ''normal'' in an antidumping investigation in the United States in 1994 is, under the Appellate Body's analysis, inconsistent with our WTO obligations, as applied in this case. However, absent the Department's ''normal'' analysis, neither the SAA, nor the regulations, direct the Department as to the appropriate alternative methodology.

Finally, to the extent that the Canadian Parties argue that the Preliminary 129 Determination, if finalized, would be inconsistent with other provisions of the Antidumping Agreement, we note that our analysis in this Section 129 Determination complies fully with United States law and regulations. Furthermore, the Act, the URAA, and the Department's regulations are consistent with United States obligations under the Antidumping Agreement and all other WTO Agreements. *See* SAA at 669 (speaking to the consistency of the URAA with United States international obligations). Accordingly, the Department has determined that no further analysis is warranted with respect to these arguments, and that this Section 129 Determination implements an analysis that is consistent with our domestic and international obligations, as well as with the Appellate Body Report.

Comment 4: Statutory Preference for Identical Matches

The Canadian Parties assert that section 771(16) of the Act requires the Department to apply methodologies that maximize the number of identical matches of merchandise for comparison. The Canadian Parties contend that the weighted-average methodology used in the LTFV investigation produced mostly identical matches of merchandise, but that the transaction-to-transaction methodology used in the Preliminary 129 Determination produced mostly non-identical comparisons. Further, they argue that there is no additional information on the record of the proceeding to justify such a change.

The Coalition did not address this point specifically, but argued, as discussed above, that the use of a transaction-to-transaction methodology is permissible under U.S. law, and within the Department's discretion.

Department's position: We disagree that the determination of which comparison methodology to use hinges on the number or percentage of identical matches obtained. While the Department has an established precedent for using price-to-price matches where possible,[12] the transaction-to-transaction methodology is consistent with our statutory obligation in that it exhausts all possible identical matches within the two-week window of contemporaneous sales before searching for similar matches, and exhausts all price-to-price matches based on comparisons to similar merchandise before going to constructed value. The Canadian Parties have not suggested that the time period for looking for identical matches be expanded; indeed, they have stated that even seven days on either side of the sale may be too long a period to address the volatility.

Although section 771(16) of the Act lists identical matches as the first choice among the options for selecting a match, it does not address the issue of the time period over which the search for identical matches should be conducted in a transaction-to-transaction methodology. Section 773(a)(1)(A) states that the price to be used for normal value must be ''at a time reasonably corresponding to the time of the sale used to determine the export price or constructed export price.'' We note that in administrative reviews individual U.S. sales are matched to home market sales within a time frame that is less than the whole review period. *See* 19 CFR 351.414 (e)(2). In addition, in cases where use of a limited time period was warranted by special circumstances in the market, such as high inflation, the Department has used averaging periods shorter than the full POI.[13] The same logic applies when doing transaction-to-transaction comparisons. Absent a specific statutory mandate on the time period to be used, the Department must exercise its discretion in determining the most appropriate period over which to search for an identical match. Depending on the market conditions for a given product, this time period could vary from case to case. For a discussion on the appropriate time period, see Comment 5 below.

Comment 5: Price Volatility

The Canadian Parties argue that there is no rational connection between the Department's price volatility finding and its conclusion that price volatility justifies a switch to the transaction-to-transaction comparison methodology. In fact, according to the Canadian Parties, the Department's price volatility findings support a weighted-average-to-weighted-average methodology because averaging smooths price volatility.

The Canadian Parties argue that the Department incorrectly presumed that pairing each U.S. sale with a home market transaction on or around the same date would correct for price volatility. This presumption, the Canadian Parties maintain, would only be correct if there was no or limited price volatility within the time periods where the transactions were matched. The Canadian Parties contend that there is no evidence the volatility does not exist or is limited during the periods. They have provided analyses from Abitibi, Canfor, Tembec, and Weyerhaeuser that demonstrate price volatility within various limited time frames.

The Canadian Parties argue that in past cases, such as Flowers from Colombia,[14] the Department recognized that price averaging, not transaction-to-transaction comparisons, is the best methodology for addressing issues posed by highly volatile prices. Moreover, according to the Canadian Parties, in Flowers from Colombia, the Department found that price-to-price comparisons were particularly inappropriate in conjunction with the

[12] See *Cemex S.A.* v. *United States,* 133 F.3d 897 (Fed.Cir.1998).

[13] *See, e.g.,* Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination Not To Revoke in Part 69 FR 64731 (November 8, 2004); Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Taiwan, 61 FR 14064 (March 29, 1996).

[14] See Final Determination of Sales at Less than Fair Value: Certain Fresh Cut Flowers from Colombia, 52 FR 6842,6843 (March 5, 1987).

treatment of non-dumped sales as having zero margins.

According to the Coalition, there is ample evidence on the record demonstrating that the volatility of net prices would be significantly reduced by pairing each U.S. sale with a home market sale on or around the same date of sale. First, the Coalition points out, the bi-weekly tests used by the Canadian Parties overstate the period in which the Department looked for a match, because the transactions selected as the most appropriate match could never be more than seven days from the U.S. date of sale.

Further, the Coalition argues that the Canadian Parties' use of standard deviations to measure the relative volatility of various price strings is misleading. The better statistical analysis for comparing the relative volatility of various different price series, the Coalition maintains, is the coefficient of variation, which takes into account the standard deviation as a percentage of the mean. Using this measure on high volume products for all six respondents, the Coalition concludes that daily prices have a lower coefficient of variation than weekly prices, which have a lower coefficient of variation than monthly or quarterly prices. Therefore, the Coalition concludes that using prices of transactions that occurred on the same date or, at most, not more than seven days from the U.S. sale, significantly reduces volatility.

Finally, the Coalition argues that the Canadian Parties' arguments regarding price volatility are flawed because they did not take into account all the factors the Department used in its transaction-to-transaction methodology. According to the Coalition, when all these factors are taken into account, price volatility among potential product matches is eliminated.

Department's position: We disagree with the Canadian Parties that use of a weighted-average-to-weighted-average comparison is the only way to account for price volatility in the lumber market. First, we find that the Canadian Parties' cite to Flowers from Colombia is inapposite. In Flowers from Colombia, the Department rejected a transaction-to-transaction analysis because of (i) the administrative burden and (ii) the perishable nature of the product in question, which meant that ''end of the day'' sales were made at distress prices. The Department stated that because it treated non-dumped sales as having zero margins, the distress sales would be given a disproportionate weight.

Unlike fresh cut flowers, lumber is not a highly perishable product that needs to be disposed of by the end of each business day regardless of price. Thus, there is no separate, identifiable class of sales that can be said a priori to give rise to a distortion in our dumping analysis, as was the case in Flowers from Colombia.

With regard to the Canadian Parties' demonstration that prices can vary widely in a single day, large price ranges on a single day may indicate that the companies are reacting to fluctuations in market prices, but it may also indicate that they are able to sell to different customers at different prices. The purpose of our dumping analysis is to look at an individual company's selling practices to determine whether it is engaging in unfair price discrimination. When faced with a situation where there were multiple sales of the same product on the same day, the criteria we have selected as tie-breakers allow us to determine which sales were made under the most similar circumstances.

With regard to the Canadian Parties' use of a standard deviation analysis, we agree with the Coalition that the coefficient of variation gives a clearer idea as to whether variability is reduced by limiting matches to a shorter time period. While the coefficient of variation analysis demonstrates that the greatest reduction in volatility can be achieved by matching sales made only on the same day, we have had to balance our desire to reduce the effect of price volatility with our statutory preference for price-to-price matches. Therefore, we have continued to look for matches within a seven-day period on either side of the U.S. sale.

Comment 6: Matching Hierarchy

The Canadian Parties contend that the Department has provided no factual basis for its matching criteria and hierarchy used to match individual U.S. sales to home market transactions, and that the record is insufficient to implement a transaction-to-transaction comparison methodology. According to the Canadian Parties, the Department deployed a methodology never used for an investigation and has not accorded the parties an opportunity to submit new factual information regarding the process. They state that, as a result, the following problems have developed: (1) The Department's use of a biweekly period to control price volatility is unsupported by record evidence and entirely ineffective; (2) using the date of sale to match transactions may be inappropriate because the actual pricing of the merchandise took place on a different date; (3) the Department's methodology ignores differences between spot sales, which stem from market conditions at the time, and contract sales, which are based on pricing formulas; and (4) the Department's approach fails to account for ''random length'' [15] sales, whose pricing effects are evened out in an averaging methodology but may inappropriately impact margins on a transaction-to-transaction basis.

The Coalition contends that at no point in the case did the respondents complain about the dates of sale being used, nor did they suggest that the Department should refrain from mixing and matching spot sales and contract sales, or refrain from matching mixed-length to single-length sales. According to the Coalition, all these issues were just as relevant when the Department was matching on a weighted-average-to-weighted-average basis. Because none of the Canadian respondents raised these issues during the investigation, the Coalition maintains that the Department should dismiss these claims.

Department's position: We disagree with the Canadian Parties that there was no factual basis for the matching criteria used in the transaction-to-transaction matching hierarchy. The issue of the two-week period is discussed in detail above. With regard to date of sale, the Department's policy on date of sale is well established. Section 351.401(i) states, ''In identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.''

Section A of the Department's questionnaire asks numerous questions related to whether a date other than invoice date would better reflect the date on which the material terms of sale were established. After reviewing all of the responses, the Department stated in its preliminary determination, ''{W}e generally relied on the date of invoice as the date of sale. Consistent with the Department's practice, where the invoice was issued after the date of shipment, we relied on the date of shipment as the date of sale.'' [16] Date of

[15] For the purposes of this Section 129 Determination, we are defining a random length sale as any sale which contains multiple lengths, for which a blended (*i.e.*, average) price was reported.

[16] See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Softwood Lumber Products From Canada, 66 FR 56062 (November 6, 2001).

sale was not an issue for the final determination.

Further, the Canadian Parties have suggested that it may have been more appropriate for the Department to establish the date of sale differently for different types of sales made by the same company. The Preamble states: ''{W}e have retained the preference for using a single date of sale for each respondent, rather than a different date of sale for each sale.'' [17] Nowhere in the Department's regulations does it imply that a different date of sale methodology should be employed when the Department uses a transaction-to-transaction methodology in calculating margins. Further, the Canadian Parties have suggested that the Department should consider only the date on which the price was set and not when all the material terms of sale were set. To do so would be contrary to our regulations and precedent.

Consistent with our regulations and precedent, our determination on date of sale for each respondent was based on its description of its selling practices overall. The respondents all reported the earlier of invoice or date of shipment as the date of sale. We found in reviewing the responses and at verification that, for the preponderance of sales, the invoice date most properly reflects when the material terms of sales (*i.e.*, price and quantity) are set. For example, the Abitibi Sales Verification Report states, ''Based on our examination of the company's records, we noted that, generally, terms of sale, such as quantity ordered, may change from the order date to the invoice date, especially with respect to direct sales. For this reason, the invoice date is generally found to be the most appropriate basis for the date of sale.'' [18] Consistent with the companies' responses, we used, and have continued to use, the earlier of invoice date or date of shipment as the date of sale.

With regard to the Canadian Parties' suggestion that it may have been appropriate to consider whether a sale was made using spot prices or a contract price, we note that typically contracts are written to reflect market prices. For example, in its Section A questionnaire response, Abitibi states that prices are set by agreed upon formulas and that the ''pricing formulas are based on a spread above a third party publication pricing series, usually, Random Lengths.'' [19] In other words, the contract prices are designed to move with the market. Although Abitibi mentions that some specialty products may have firm fixed-price contracts, information on the record indicates that reportable lumber products were not generally sold with firm fixed prices.[20] To the extent the contract sales are distinguished by customer category or channel of distribution, they were taken into account in distinguishing between equally similar matches.

Regarding sales made on a ''random length'' basis, we acknowledge that the sales are not identified in the database. During the investigation, the Department did not, with one exception, get data regarding these sales because the respondents did not keep any information which would allow them to identify the underlying length-specific prices. During the first administrative review of the order, we subsequently devised a methodology to deconstruct prices for at least some of the sales made on this basis. We asked the respondents for data to identify these sales, and they provided these data. We note that the respondents vociferously argued that we should be using the blended invoice price, despite the fact that, as here, we were matching individual U.S. transactions.[21] In light of the respondents' inconsistent positions on this issue and the time that would have been necessary to collect these additional data (as compared with the time available to complete this determination), we have continued to use the reported prices for random length sales.

In developing the transaction-to-transaction matching methodology, our goal was to reflect, as closely as possible, the Department's matching criteria used in the original investigation, using the information collected in the responses to our questionnaires. We note that a separate set of regulations does not exist for transaction-to-transaction methodologies. The regulations as written cover all calculation methodologies. Therefore, we began, as we do in all cases, by focusing on the physical characteristics of the products. When there was more than one appropriate match, we used information supplied in the responses to our questionnaires.

While we recognize that there may be many possible approaches to finding the most appropriate single match for a given sale, and that more information could result in different criteria being applied, it is not incumbent upon the Department to demonstrate that its methodology is the only possible methodology, only that it is a reasonable interpretation of its regulations and the statute. Substantial deference is owed to an agency's interpretation of the statute it is charged with administering, as long as such interpretation is reasonable. *See Chevron U.S.A., Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837, 844 (1984). In addition, substantial deference is granted to an agency's interpretation of its own regulations.[22]

We believe that in following our original matching criteria to the extent possible, and then taking into account case-specific factors such as price volatility, we have conformed to our statutory obligations. Section 771(16)(A) of the Act requires that the Department take into account physical characteristics in determining which comparison market sales to match to a U.S. sale. We have done so. Section 773(a)(1)(B) of the Act requires that, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade as the EP or CEP transaction. Again, we have done so. Because the statute does not specifically address which match to choose when more then one comparison-market sale constitutes an equally similar match, we have used our discretion in determining which criteria should be used to determine the most appropriate match. Our reasons for choosing the criteria we did are outlined above, in the final determination section of this notice.

Comment 7 : Window Period

The Canadian Parties argue that the Department's methodology for making comparisons to individual U.S. transactions requires the use of home market sales made during the ''shoulder periods'' before and after the POI. The

[17] See the Preamble at 27348.

[18] *See* Memorandum from Magd Zalok and Amber Musser, Import Compliance Specialists to Gary Taverman, Director, Office 5 re: Verification of the Sales Response of Abitibi-Consolidated Inc. in the Antidumping Investigation of Certain Softwood Lumber Products from Canada dated January 31, 2002, at page 9. (Abitibi Sales Verification Report)

[19] See Abitibi Section A Questionnaire response, dated June 22, 2001, at page A–26.

[20] *See, e.g.*,Abitibi Section A Questionnaire Response at Annexes A–6 and A–7.

[21] *See* Softwood Lumber Decision Memo at Comment 5.

[22] *See, e.g.,Torrington Company* v. *United States*, 156 F.3d. 1361, 1363–64 (Fed. Cir.1998), citing *Thomas Jefferson Univ.* v. *Shalala*, 512 U.S. 504, 512, 129 L. Ed. 2d 405, 114 S. Ct. 2381 (1994) (''We must give substantial deference to an agency's interpretations of its own regulations. * * * The agency's interpretation must be given controlling weight unless it is plainly erroneous or inconsistent with the regulation. * * * This broad deference is all the more warranted when, as here, the regulation concerns a complex and highly technical regulatory program, in which the identification and classification of relevant criteria necessarily require significant expertise and entail the exercise of judgment grounded in policy concerns.'' (citations and internal quotation marks omitted)).

Canadian Parties contend that since the Department is using a two-week matching period, it cannot fully implement its methodology without collecting data for home market sales made two weeks before and two weeks after the POI.

The Coalition points out that the home market transaction being matched to U.S. sales has to be within seven days of the U.S. sales; therefore, very little data, only one week on either side of the POI is actually missing.

Department's position: Because we do not have all possible matches for sales made during the first and last seven days of the POI, we have decided to disregard U.S. sales which took place in those weeks. In LTFV investigations, the Department is not required to examine all sales transactions. For this reason, our practice has been to disregard unusual transactions when they represent a small percentage (*i.e.*, typically less than five percent) of a respondent's total sales.[23] The sales at issue here represent significantly less than five percent of sales. While the sales are not unusual in that they are not different from other sales which occurred during the POI, they are unusual to the extent that we do not have the same pool of possible matches for them. Therefore, to address the Canadian Parties' concern in this regard, we have decided to disregard those sales.

Comment 8: Reopening the Record

The Canadian Parties argue that it is not necessary to reopen the record to collect missing data for use in this proceeding. Any missing data, according to the Canadian Parties, would only be relevant to the application of the transaction-to-transaction methodology. They contend that using this methodology is not necessary for bringing the Department's determination into conformity with the U.S. obligations under the WTO Antidumping Agreement, meaning that there is no need to reopen the record of this proceeding.

The Coalition agrees that the record should not be reopened. Moreover, the Coalition believes it is unnecessary because no data are missing.

Department's position: As discussed above, in Comment 7, we have been able to use the information gathered in the course of the investigation to implement a methodology which is consistent with both the statute and the Department's regulations, as well as not inconsistent with the Appellate Body Report. Therefore, we consider it unnecessary to reopen the record.

Comment 9: NAFTA Panel Determination

The Canadian Parties state that the mandatory respondents and industry associations successfully appealed various aspects of the Final Determination to a NAFTA binational panel. The Canadian Parties argue that the Department must revise the Preliminary 129 Determination to account for the ruling of the NAFTA panel, instead of repeating all of the prior legal errors.

The Coalition maintains that the ongoing NAFTA proceeding is irrelevant to this section 129 proceeding.

Department's position: We disagree with the Canadian Parties. At this time, the decisions of the NAFTA panel are not final and conclusive.[24] Absent a final and conclusive decision from the NAFTA panel, the Department has no obligation to incorporate decisions arising out of the ongoing proceeding.

Comment 10: Difmer Methodology

The Canadian Parties argue that the Department must use the programs from the NAFTA panel remand in calculating the margins for the Section 129 Determination, and that when it does, transaction-to-transaction comparisons will be incompatible with the manner in which the Department computed and applied difference in merchandise adjustments (''difmers'') for non-identical matches. According to the Canadian Parties, the Department calculated difmers based on a cost allocation that used the annual average net realizable value of different grades of merchandise being compared. The Canadian Parties argue that combining this difmer methodology with transaction-to-transaction comparisons distorts the margins because difmers are compensating for the variation between the annual average price on a given day, rather than for differences in the merchandise.

Department's position: As discussed above, we have not relied on the results of the NAFTA panel proceeding, which is not final. Since we are not using the difmer methodology applied in a remand determination in the NAFTA proceeding, this issue is moot.

Section 129 Determination Margins

As a result of the changes to the calculations, we have determine that the following antidumping margins exist:

Manufacturer/exporter	Weighted-average margin
Abitibi-Consolidated Inc. (and its affiliates Produits Forestiers Petit Paris Inc., Produits Forestiers La Tuque Inc., Scieries Saguenay Ltee., Societe En Commandite Scierie Opticwan)	13.22
Canfor Corporation (and its affiliates Lakeland Mills Ltd., The Pas Lumber Company Ltd., Howe Sound Pulp and Paper Limited Partnership)	9.27
Slocan Forest Products Ltd.	12.91
Tembec Inc. (and its affiliates Marks Lumber Ltd., Excel Forest Products)	12.96
West Fraser Timber Co. Ltd. (and its affiliates West Fraser Forest Products Inc., Seehta Forest Products Ltd.)	3.92
Weyerhaeuser Company (and its affiliates Monterra Lumber Mills Ltd., Weyerhaeuser Saskatchewan Ltd.)	16.35
All Others	11.54

Continuation of the Suspension of Liquidation

On April 27, 2005, in accordance with sections 129(b)(4) and 129(c)(1)(B) of the URAA, the U.S. Trade Representative, after consulting with the Department and Congress, directed the Department to implement this determination. Therefore, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all imports of softwood lumber from Canada that are entered, or withdrawn from warehouse, for consumption on or after April 27, 2005. CBP shall continue to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price. The suspension of liquidation instructions will remain in effect until further notice.

Because we completed an administrative review of all of the individual companies subsequent to the

[23] *See, e.g.*, Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China, 69 FR 20594 (April 16, 2004), Issues and Decision Memorandum at Comment 27; Final Determination of Sales at Less than Fair Value: Pure Magnesium from the Russian Federation, 66 FR 49347 (September 27, 2001), Issues and Decision Memorandum at Comment 10; and Notice of Preliminary Determination of Sales at Less Than Fair Value Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Japan, 64 FR 8291, 8295 (February 19, 1999).

[24] See Rules 77(1), 78, 79 of the NAFTA Article 1904 Panel Rules (providing the process by which a Notice of Final Panel Action is implemented and/or appealed); see generally 28 U.S.C. 2645 (providing that CIT decisions are ''final and conclusive'' only after a certain amount of time, and that the filing of a notice of appeal with the CAFC means that the decision is not final until all appeals are exhausted).

issuance of the order in this proceeding, we will not issue a new cash deposit rate for them, pursuant to this Section 129 Determination. The Section 129 Determination ''all others'' rate will be the new cash deposit rate for all exporters of subject merchandise which did not participate in the first administrative review, with respect to entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after April 27, 2005, the date on which the U.S. Trade Representative directed the Department to implement this determination. These instructions will remain in effect until further notice.

This Section 129 Determination is issued and published in accordance with section 129(c)(2)(A) of the URAA.

Dated: April 27, 2005.

Barbara E. Tillman,

Acting Assistant Secretary for Import Administration.

[FR Doc. 05–8745 Filed 4–29–05; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 011206293–3182–02; I.D. 042605F]

Pacific Halibut Fishery; Guideline Harvest Levels for the Guided Recreational Halibut Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of guideline harvest level.

SUMMARY: NMFS provides notice of the guideline harvest level (GHL) for the guided sport halibut fishery (charter fishery) in the International Pacific Halibut Commission (IPHC) regulatory area 2C of 1,432,000 pounds (649.5 mt), and a GHL in the IPHC regulatory area 3A of 3,650,000 pounds (1,655.6 mt). The GHLs are intended to serve as a benchmark for participants in the charter fishery.

DATES: The GHLs are effective beginning 1200 hrs, Alaska local time (A.l.t.), February 1, 2005, and will close at 2400 hours, A.l.t., December 31, 2005. This period is specified by the IPHC as the sport fishing season in all waters of Alaska.

FOR FURTHER INFORMATION CONTACT: Glenn Merrill, 907 586 7228, or email at *glenn.merrill@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS implemented a final rule to establish GHLs in IPHC regulatory areas 2C and 3A for the harvest of Pacific halibut (*Hippoglosses stenolepis*) by the charter fishery on August 8, 2003 (68 FR 47256). The GHLs are intended to serve as a benchmark for participants in the charter fishery.

This announcement is consistent with 50 CFR 300.65(i)(2), which requires that GHLs for IPHC regulatory areas 2C and 3A be specified by NMFS and announced by publication in the **Federal Register** no later than 30 days after receiving information from the IPHC which establishes the constant exploitation yield (CEY) for halibut in IPHC regulatory areas 2C and 3A for that year. Based on the regulations at § 300.65(i)(1), the CEY established by the IPHC in 2005 in regulatory area 2C results in a GHL of 1,432,000 pounds (649.5 mt), and, in regulatory area 3A, results in a GHL of 3,650,000 pounds (1,655.6 mt).

This notice is intended to serve as an announcement of the GHL's in Areas 2C and 3A for 2005. If a GHL is exceeded in 2005, based on information received from the Alaska Department of Fish and Game, NMFS will notify the North Pacific Fishery Management Council (Council) in writing within 30 days pursuant to regulations at § 300.65(i)(3). The Council is not required to take action, but may recommend additional management measures after receiving notification that a GHL has been exceeded.

Classification

This notice does not require any additional regulatory action by NMFS and does not impose any additional restrictions on harvests by the charter fishery. This process of notification is intended to provide the Council an indication of the level of harvests by the charter fishery in a given year and could be used to prompt future action.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 26, 2005.

Anne M. Lange

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 05–8696 Filed 4–29–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042605C]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling public meetings of its Recreational Fishing; Herring; Scallop; Joint Groundfish/Monkfish and Joint Red Crab, Skates and Whiting Advisory Panels in May 2005, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held on May 16; May 19; May 23; May 25 and May 26, 2005. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Peabody, MA; Mansfield, MA; Portsmouth, NH and Fairhaven, MA. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: Monday, May 16, 2005 at 9:30 a.m.—Recreational Fishing Advisory Panel Meeting.

Location: Holiday Inn, One Newbury Street, Peabody, MA 01960; telephone: (978) 535–4600.

Thursday, May 19, 2005 at 9:30 a.m.—Joint Red Crab, Skates and Whiting Fishing Advisory Panel Meeting.

Location: Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200.

Monday, May 23, 2005 at 9:30 a.m.—Herring Fishing Advisory Panel Meeting.

Location: Best Western Wynwood Hotel, 580 U.S. Highway 1 Bypass, Portsmouth, NH 03801; telephone: (603) 436–7600.

Wednesday, May 25, 2005 at 9:30 a.m.—Scallop Fishing Advisory Panel Meeting.

Location: Hampton Inn, One Hampton Way, Fairhaven, MA 02719; telephone: (508) 990–8500.

Thursday, May 26, 2005 at 9:30 a.m.—Joint Groundfish and Monkfish Fishing Advisory Panel Meeting.

Location: Holiday Inn, One Newbury Street, Peabody, MA 01960; telephone: (978) 535–4600.

Each Advisory Panel will discuss, comment on and make recommendations concerning a draft conservation and management policy which would guide Council decision-making as it addresses conservation and fairness in all future management challenges. Other business may be discussed as needed.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: April 26, 2005.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E5–2061 Filed 4–29–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042605B]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling public meetings of its Herring and Habitat/MPA/Ecosystems Oversight Committees in May, 2005 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held on May 17-18, and May 26, 2005. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Peabody, MA, and Narragansett, RI. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Tuesday, May 17, 2005 at 9:30 a.m. and Wednesday, May 18, 2005 at 9 a.m.—Herring Oversight Committee Meeting.

Location: Holiday Inn, One Newbury Street, Peabody, MA 01960; telephone:(978) 535–4600.

The Committee will review updated surveys, trends in herring stock status, and related Herring Plan Development Team (PDT) conclusions/recommendations; review work/analyses completed for the Draft Supplemental Environmental Impact Statement (DSEIS) for Amendment 1 to the Herring Fishery Management Plan and address any outstanding issues regarding the Amendment 1 alternatives and measures under consideration and provide clarification and guidance to the Herring PDT as appropriate. Also on the agenda will be review of the work completed by the Herring and Groundfish PDTs regarding a measure to establish bycatch caps for groundfish stocks of concern and finalize the details of this measure for inclusion in Amendment 1. They will also discuss concerns related to the role of herring as a forage species and localized depletion and begin to develop a strategy to address these issues over the short-term and long-term.

Thursday, May 26, 2005 at 9:30 a.m.—Habitat/MPA/Ecosystem Oversight Committee Meeting.

Location: Village Inn, Narragansett, One Beach Street, Narragansett, RI 02882; telephone: (401) 783–6767.

The Committee will continue work on elements of the Essential Fish Habitat Omnibus Amendment 2 including, but not limited to; review of the progress on the Habitat Advisory Panel's gear descriptions document preparation; receive an update on the progress of the NMFS Habitat Evaluation Working Group (EFH designation methods) and review the Terms of Reference for Phase 1 of the upcoming two-part Habitat Evaluation Review Committee peer review workshop in June 2005; receive an update on the progress by the PDT to conduct a risk assessment to evaluate the vulnerability, availability and recovery of impacts to EFH and presentation of Habitat Area of Particular Concern Proposals received by the Council during the Request for Proposal Period which ended March 25, 2005. Other topics to be addressed by the Committee include: a briefing on the various Liquified Natural Gas proposals in the Northeast Region; presentation of the preliminary results of the Marine Protected Areas Education and Outreach Workshops which are scheduled for May 5–6 and May 10–11, 2005. In addition the Committee will receive an update on Ecosystems Pilot Project and will discuss other topics at their discretion.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: April 27, 2005.

Tracey Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E5–2069 Filed 4–29–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042605E]

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a meeting of its Marine Mammal Advisory Committee (MMAC) to discuss issues relating to the interactions of marine mammals with pelagic fisheries in the Hawaiian Islands.

DATES: The meeting of the MMAC will be held on May 11–12, 2005, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Council Office Conference Room, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813; telephone: (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The MMAC will meet on May 11–12, 2005, at the Council Conference Room to discuss the following agenda items:

1. Introductions
2. Hawaii longline fishery, current status
3. Spending plan to address category 1 classification of the Hawaii longline fishery
4. Update on observer data records of marine mammal interactions with Hawaii-based longliners
5. Statistical aspects of estimating fleet wide interactions between marine mammals and Hawaii-based longline vessels
6. Studies of odontocete population size and structure in the main Hawaiian Islands
7. Stock assessment reports for marine mammals in the Western Pacific Region
8. Opportunistic information on False Killer Whales from the SPLASH program
9. Recreational fisheries and interactions with marine mammals
10. Longline—depredation research on toothed whales
11. Behavioral aspects of toothed whale depredation on longlines
12. Fleet communication strategies to avoid protected species interactions with longlines
13. Other business
14. Recommendations

The order in which the agenda items are addressed may change. The MMAC will meet as late as necessary to complete scheduled business. Although non-emergency issues not contained in this agenda may come before the MMAC for discussion, those issues may not be the subject of formal action during these meetings. Plan Team action will be restricted to those issues specifically listed in this document and any issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

Dated: April 27, 2005.

Tracey Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E5–2068 Filed 4–29–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042605D]

Western Pacific Fishery Management Council; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold hearings on fishery data collection management options in Hilo, HI and Honolulu, HI. See **SUPPLEMENTARY INFORMATION** for specific times, dates, and agenda items).

ADDRESSES: The hearings will be held at the Hawaii Naniloa Hotel, 93 Banyan Dr., Hilo, HI 96720 and the Western Pacific Fishery Management Council Office, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

DATES: The hearings will be held in Hilo, HI on May 13 2005, from 6 p.m. to 9 p.m. and Honolulu, HI on May 19, 2005, from 6 p.m. to 9 p.m.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: In December of 2004, the Western Pacific Regional Fishery Management Council (Council) was advised by NMFS that overfishing of Pacific-wide bigeye tuna was occurring and requested the Council take appropriate action to end overfishing. At its 126th meeting, March 14–17, 2005, in Honolulu, the Council took action and unanimously voted to develop initiatives to address overfishing of bigeye tuna in Hawaii. One initiative is to require permits and catch reports for Hawaii small pelagic fishing boats in order to provide scientists with complete fishery information.

Bottomfish resources in the main Hawaiian islands have been locally depleted and an overfishing situation similar to bigeye tuna may be occurring. The Council will begin to assess and develop measures to address overfishing in the main Hawaiian islands by collecting data from the fishery and establishing measures to reduce fishing mortality. Options for collecting data on the bottomfish and pelagic fisheries in Hawaii will be presented to the Council in June.

The Council is seeking comments and opinions on these initiatives and will present management options for fishery data collection for Pelagic and Bottomfish fisheries in Hawaii at the following hearings:

Friday, May 13, 2005, at the Hawaii Naniloa Hotel in Hilo, HI, from 6 p.m. to 9 p.m.

Thursday, May 19, 2005, at the Council Office in Honolulu, HI, from 6 p.m. to 9 p.m.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds,

(808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the hearing date.

Dated: April 27, 2005.

Tracey Thompson,

Acting Director. Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E5–2112 Filed 4–29–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042605H]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: NMFS announces that the Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has determined that an application for revised Exempted Fishing Permits (EFPs) contains all of the required information and warrants further consideration. The Assistant Regional Administrator is considering the impacts of the activities to be authorized under the EFPs with respect to the Northeast (NE) Multispecies Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue EFPs. Therefore, NMFS announces that the Assistant Regional Administrator proposes to issue revised EFPs in response to an application submitted by the Cape Cod Commercial Hook Fisherman's Association (CCCHFA), in collaboration with Maine Division of Marine Resources (MEDMR), and Research, Environmental and Management Support (REMSA).

Previous public comment was solicited on these EFPs, which would allow up to 20 commercial vessels to conduct an experimental demersal longline fishery for haddock in Georges Bank (GB) Closed Area (CA) II and portions of the Eastern U.S./Canada Area. This action would revise these EFPs by including an exemption from the May GB Seasonal Closure Area. This fishery would take place at various times from May 2005 through February 2006. The purpose of the proposed study is to determine if hook-and-line gear could be used to target haddock with minimal bycatch of cod in order to establish potential future Special Access Programs (SAPs) in these areas as allowed under Amendment 13 to the FMP.

DATES: Comments on this action must be received (see ADDRESSES) on or before May 17, 2005.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, NE Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Haddock CA II SAP EFP Proposal.'' Comments may also be sent via fax to 978–281–9135, or submitted via e-mail to the following address: *da735r@noaa.gov*. Copies of the Environmental Assessment (EA) are available from the NE Regional Office at the same address.

FOR FURTHER INFORMATION CONTACT: Karen Tasker, Fishery Management Specialist, phone: 978–281–9273, fax: 978–281–9135, e-mail: *karen.tasker@noaa.gov*.

SUPPLEMENTARY INFORMATION: The CCCHFA, in collaboration with the MEDMR and REMSA, submitted a request for an EFP on November 16, 2004. Public notification of the proposal and request for comments was published in the **Federal Register** on March 2, 2005 (70 FR 10074).

The proposed EFP would enable researchers to conduct a study targeting GB haddock within GB CA II and a portion of the Eastern U.S./Canada Area outside of CA II. The purpose of the proposed study is to determine if demersal longline gear could be used to target GB haddock with minimal bycatch of GB cod. This proposal expands upon a study that began on June 10, 2004, and ended on January 31, 2005, that examined the feasibility of using demersal longline gear to target haddock with minimal cod bycatch in several closure areas in the Gulf of Maine (GOM) and GB.

The CCCHFA's November 17, 2004, proposal requests authorization for a total of 160 trips by 20 commercial longline vessels to fish for and possess haddock in the Eastern U.S./Canada Area, including CA II, during various times from May 2005 through February 2006. In order to accomplish this work, the CCCHFA requested an exemption from the CA II restrictions on the haddock trip limit for all participating vessels, and an exemption from the 3,600–hook limit for participating non-Sector vessels in their initial application. At a later date, it also requested an exemption from the GB Seasonal Closure Area restrictions for participating non-Sector vessels. The notice and request for comments published on March 2, 2005, addressed the exemptions requested in the initial proposal but did not address the exemption to the GB Seasonal Closure Area. This proposed revision would exempt participating non-Sector vessels from the GB Seasonal Closure Area during the month of May 2005.

The applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and result in only a minimal change in the scope or impact of the initially approved EFP request. The EFP could be made effective following publication of the EFP application in the **Federal Register**, with a 15-day public comment period.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 27, 2005.

Anne M. Lange

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 05–8697 Filed 4–29–05; 8:45 am]

BILLING CODE 3510–22–S

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for 19 May 2005 at 10 a.m. in the Commission's offices at the National Building Museum, Suite 312, Judiciary Square, 401 F Street, NW., Washington, DC 20001–2728. Items of discussion affecting the appearance of Washington, DC, may include buildings, parks and memorials.

Draft agendas and additional information regarding the Commission are available on our Web site: *www.cfa.go*. Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Thomas Luebke, Secretary, Commission of Fine Arts, at the above address or call (202) 504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, DC, 26 April 2005.

Thomas Luebke,

Secretary.

[FR Doc. 05–8650 Filed 4–29–05; 8:45 am]

BILLING CODE 6330–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0141]

Federal Acquisition Regulation; Information Collection; Buy American Act--Construction

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0141).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning the Buy American Act--Construction (Grimberg Decision). The clearance currently expires on June 30, 2005.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before July 1, 2005.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, FAR Secretariat, 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Kimberly Marshall, Contract Policy Division, GSA (202) 219–0986.

SUPPLEMENTARY INFORMATION:

A. Purpose

The clauses at FAR 52.225–9, Buy American Act-Construction Materials, and FAR 52.225–11, Buy American Act-Construction Materials under Trade Agreements provide that offerors/contractors requesting to use foreign construction material, other than construction material eligible under a trade agreement, shall provide adequate information for Government evaluation of the request. These regulations implement the Buy American Act for construction (41 U.S.C. 10a - 10d).

B. Annual Reporting Burden

Respondents: 500.
Responses Per Respondent: 2.
Annual Responses: 1,000.
Hours Per Response: 2.5.
Total Burden Hours: 2,500.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (VIR), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0141, Buy American Act--Construction (Grimberg Decision), in all correspondence.

Dated: April 20, 2005

Julia B. Wise

Director, Contract Policy Division.

[FR Doc. 05–8619 Filed 4–29–05; 8:45 am]

BILLING CODE 6820–EP–SZ

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0091]

Federal Acquisition Regulation; Information Collection; Anti-Kickback Procedures

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning anti-kickback procedures. The clearance currently expires on June 30, 2005.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before July 1, 2005.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, FAR Secretariat (VIR), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0091, Anti-Kickback Procedures, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ernest Woodson, Contract Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

Federal Acquisition Regulation (FAR) 52.203–7, Anti-Kickback Procedures, requires that all contractors have in place and follow reasonable procedures designed to prevent and detect in its own operations and direct business relationships, violations of section 3 of the Anti-Kickback Act of 1986 (41 U.S.C. 51–58). Whenever prime contractors or subcontractors have reasonable grounds to believe that a violation of section 3 of the Act may have occurred, they are required to report the possible violation in writing to the contracting agency or the Department of Justice. The information is used to determine if any violations of section 3 of the Act have occurred.

B. Annual Reporting Burden

Respondents: 100.
*Responses Per Respondent:*1.
Annual Responses: 100.
Hours Per Response: 1.
Total Burden Hours: 100.
Obtaining Copies of Proposals: Requesters may obtain copies of the information collection documents from the General Services Administration, FAR Secretariat (VIR), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0091, Anti-Kickback Procedures, in all correspondence.

Dated: April 21, 2005

Julia B. Wise

Director, Contract Policy Division.

[FR Doc. 05–8620 Filed 4–29–05; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0067]

Federal Acquisition Regulation; Information Collection; Incentive Contracts

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning incentive contracts. The clearance currently expires on June 30, 2005.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before July 1, 2005.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, FAR Secretariat (VIR), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0067, Incentive Contracts, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Jerry Zaffos, Contract Policy Division, GSA (202) 208–6091.

SUPPLEMENTARY INFORMATION:

A. Purpose

Incentive contracts are normally used when a firm fixed-price contract is not appropriate and the required supplies or services can be acquired at lower costs, and sometimes with improved delivery or technical performance, by relating the amount of profit or fee payable under the contract to the contractor's performance.

The information required periodically from the contractor--such as cost of work already performed, estimated costs of further performance necessary to complete all work, total contract price for supplies or services accepted by the Government for which final prices have been established, and estimated costs allocable to supplies or services accepted by the Government and for which final prices have not been established--is needed to negotiate the final prices of incentive-related items and services.

The contracting officer evaluates the information received to determine the contractor's performance in meeting the incentive target and the appropriate price revision, if any, for the items or services.

B. Annual Reporting Burden

Respondents: 3,000.
*Responses Per Respondent:*1.
Annual Responses: 3,000.
*Hours Per Response:*1.
Total Burden Hours: 3,000.
Obtaining Copies of Proposals: Requesters may obtain a copy ofthe information collection documents from the General Services Administration, FAR Secretariat (VIR), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0067, Incentive Contracts, in all correspondence.

Dated:April 20, 2005

Julia B. Wise

Director,Contract Policy Division.

[FR Doc. 05–8621 Filed 4–29–05; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Meetings of the Defense Base Closure and Realignment Commission

AGENCY: Department of Defense.

ACTION: Notice—open and partially closed meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), as amended, notice is hereby given that the Defense Base Closure and Realignment Commission will hold Commission Meetings on Tuesday, May 3, 2005 and Wednesday, May 4, 2005.

In accordance with the Federal Advisory Committee Act of 1972, as amended, it has been determined that the part of the Commission's Meeting on May 4, 2005 concerns matters sensitive to the interest of national security and will be closed to the public as authorized by 5 U.S.C. 552B(c)(1)(1982).

With the exception of a partial closed meeting on May 4, 2005 both Commission Meetings will be open to the public. On May 4, 2005, the first hour of the Commission Meeting will be open to the public, and following the first hour of the Meeting the Commission will close the Meeting to the public to receive classified briefings from the Department of Defense.

This notice is being published in less than the 15-calendar days required by law due to the delay in the establishment of the Commission and Commission staff.

With the exception of receiving classified briefings on May 4th, the Commission, in keeping with the spirit and intent of the Federal Advisory Committee Act of 1972, and subject to the availability of space will open its Meetings to the public and provide them an opportunity to observe the proceedings of the Commission.

The morning session on May 3, 2005 will consist of the swearing in of the Commissioners; presentation on the BRAC Schedule, Defense Base Closure and Realignment Act of 1990 (as amended through fiscal year 2005 Defense Authorization Act), and previous BRAC efforts by the Congressional Research Service and the General Accountability Office.

The afternoon session on May 3, 2005 will discuss the current and long-term threat confronting U.S. National Security by the Director of National Intelligence or his designate(s).

On May 4, 2005 the Commission Meeting will involve discussions with senior Defense officials on the DoD Force Structure Plan and the Secretary of Defense Guidance on the Quadrennial Review. Following an unclassified discussion with the senior Defense officials the Commission will close the Meeting and hear classified briefings from these Defense officials.

DATES: May 3, 2005—9:30 a.m. to 12:30 p.m., and 1:30 p.m. to 4:30 p.m.; May 4, 2005—9:30 a.m. to 12:30 p.m.

ADDRESSES: House Cannon Office Building, Room 334, Washington, DC 20515.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning this meeting or wishing to submit comments must contact: Mr. Charles Battaglia, Designated Federal Officer/Executive Director, Defense Base Closure and Realignment Commission, 2521 South Clark Street, Suite 600, Arlington, Virginia 22202. Telephone: (703) 799–2952. DSN# 221–2952. *c.battaglia@wso.whs.mil.*

Dated: April 28, 2005.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–8810 Filed 4–28–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Independent Review Panel To Study the Relationships Between Military Department General Counsels and Judge Advocates General—Open Meeting

AGENCY: Department of Defense.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), Public Law 96–463, notice is hereby given that the Independent Review Panel to Study the Relationships between Military Department General Counsels and Judge Advocates General will hold an open meeting at the Hilton Crystal City, 2399 Jefferson Davis Highway, Arlington, Virginia 22202, on May 18–19, 2005, from 8:30 a.m. to 11:30 p.m. and 1 p.m. to 4 p.m.

Purpose: The Panel will meet on May 18–19, 2005, from 8:30 a.m. to 11:30 a.m. and 1 p.m. to 4 p.m., in order to hear testimony from current and former senior Defense Department officials concerning the relationships between the legal elements of their respective Military Departments. These sessions will be open to the public, subject to the availability of space. During these initial sessions, the public will not have the opportunity to address the Panel orally, but will be afforded the opportunity at subsequent sessions. In keeping with the spirit of FACA, the Panel welcomes written comments concerning its work from the public at any time. Interested citizens are encouraged to attend the sessions.

DATES: May 18–19, 2005: 8:30 a.m.—11:30 a.m. and 1 p.m.—4 p.m.

Locations: Hilton Crystal City, 2399 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning this meeting or wishing to submit written comments may contact: Mr. James R. Schwenk, Designated Federal Official, Department of Defense Office of the General Counsel, 1600 DefensePentagon, Arlington, Virginia 20301–1600, Telephone: (703) 697–9343; Fax: (703) 693–7616; *schwenkj@dodgc.osd.mil.*

Interested persons may submit a written statement for consideration by the Panel at any time prior to June 10, 2005.

Dated: April 26, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–8702 Filed 4–29–05; 8:45 am]

BILLING CODE 5001—06—M

DEPARTMENT OF DEFENSE

Notice of the Defense Task Force on Sexual Harassment and Violence at the Military Service Academies—Open Meeting

AGENCY: Department of Defense.

ACTION: Amended notice; notice of the Defense Task Force on Sexual Harassment and Violence at the Military Service Academies—open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), Public Law 96–463, notice is hereby given that the Defense Task Force on Sexual Harassment and Violence at the Military Service Academies will hold an open meeting at The Thayer Hotel, 674 Thayer Road, West Point, New York 10996, on May 2, 2005 from 1 p.m. to 3:30 p.m. instead of 1 p.m. to 4 p.m.

Purpose: The Task Force will meet on May 2, 2005, from 1 p.m. until 3:30 p.m., and this session will be open to the public, subject to the availability of space. In keeping with the spirit of the Federal Advisory Committee Act, it is the desire of the Task Force to provide the public with an opportunity to make comment regarding the current work of the Task Force. The first hour of the meeting will be designated for public comment. The Superintendent of the U.S. Military Academy will also be provided the opportunity to update the Task Force on the U.S. Military Academy's response to sexual harassment and assault. The Task Force will deliberate, as necessary, based upon the information provided by Academy representatives or members of the public who make comment. Any interested citizens are encouraged to attend.

DATES: May 2, 2005: 1 p.m.–3:30 p.m.

Location: The Thayer Hotel, 674 Thayer Road, West Point, New York 10996.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning this meeting or wishing to submit comments must contact:

Mr. William Harkey, Public Affairs Officer, Task Force on Sexual Harassment and Violence at the Military Service Academies, 2850 Eisenhower Ave, Suite 100, Alexandria, Virginia 22314. Telephone: (703) 325–6640. DSN# 221–6640. Fax: (703) 325–6710/6711. *william.harkey.CTR@wso.whs.mil.*

Interested persons may submit a written statement for consideration by the Task Force and make an oral presentation of such. Persons desiring to make an oral presentation or submit a written statement to the Task Force must notify the point of contact listed above no later than 5 p.m., April 27, 2005. Oral presentations by members of the public will be permitted only on May 2, 2005, from 1 p.m. until 2 p.m. before the full Task Force. Presentations will be limited to ten minutes each. Number of oral presentations to be made will depend on the number of requests received from members of the public and the time allotted. Each person desiring to make an oral presentation must provide the point of contact listed above with one (1) written copy of the presentation by 5 p.m., April 27, 2005 and bring 15 written copies of any material that is intended for distribution at the meeting. Persons submitting a written statement must submit 15 written copies of the statement to the Task Force staff by 5 p.m. on April 27, 2005.

General Information: Additional information concerning the Defense Task Force on Sexual Harassment and Violence at The Military Service Academies, its structure, function, and composition, may be found on the DTFSH and VTMA Web site *(http://www.dtic.mil/dtfs).*

Dated: April 27, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–8806 Filed 4–28–05; 2:17 pm]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of the Defense Task Force on Sexual Harassment and Violence at the Military Service Academies—Open Meeting

AGENCY: Department of Defense.

ACTION: Amended notice; notice of the Defense Task Force on Sexual Harassment and Violence at the Military Service Academies—open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), Public Law 96–463, notice is hereby given that the Defense Task Force on Sexual Harassment and Violence at the Military Service Academies will hold an open meeting at Loews Annapolis Hotel, 126 West Street, Annapolis, MD 21401, on May 3, 2005 from 8:30 a.m. to 11 a.m. instead of 8:30 a.m. to 11:30 a.m.

Purpose: The Task Force will meet on May 3, 2005, from 8:30 a.m. until 11 a.m., and this session will be open to the public, subject to the availability of space. In keeping with the spirit of the Federal Advisory Committee Act, it is the desire of the Task Force to provide the public with an opportunity to make comment regarding the current work of the Task Force. The first hour of the meeting will be designated for public comment. The Superintendent of the U.S. Naval Academy will also be provided the opportunity to update the Task Force on the U.S. Naval Academy's response to sexual harassment and assault. The Task Force will deliberate, as necessary, based upon the information provided by Academy representatives or members of the public who make comment. Any interested citizens are encouraged to attend.

DATES: May 3, 2005: 8:30 a.m.–11 a.m.

Location: Loews Annapolis Hotel, 126 West Street, Annapolis, Maryland 21401.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning this meeting or wishing to submit comments must contact: Mr. William Harkey, Public Affairs Officer, Task Force on Sexual Harassment and Violence at the Military Service Academies, 2850 Eisenhower Ave, Suite 100, Alexandria, Virginia 22314. Telephone: (703) 325–6640. DSN# 221–6640. Fax: (703) 325–6710/6711. *william.harkey.CTR@wso.whs.mil.*

Interested persons may submit a written statement for consideration by the Task Force and make an oral presentation of such. Persons desiring to make an oral presentation or submit a written statement to the Task Force must notify the point of contact listed above no later than 5 p.m., April 27, 2005. Oral presentations by members of the public will be permitted only on May 3, 2005, from 8:30 a.m. until 9:30 a.m. before the full Task Force. Presentations will be limited to ten minutes each. Number of oral presentations to be made will depend on the number of requests received from members of the public and the time allotted. Each person desiring to make an oral presentation must provide the point of contact listed above with one (1) written copy of the presentation by 5 p.m., April 27, 2005 and bring 15 written copies of any material that is intended for distribution at the meeting. Persons submitting a written statement must submit 15 written copies of the statement to the Task Force staff by 5 p.m. on April 27, 2005.

General Information: Additional information concerning the Defense Task Force on Sexual Harassment and Violence at The Military Service Academies, its structure, function, and composition, may be found on the DTFSH and VTMA Web site *(http://www.dtic.mil/dtfs).*

Dated: April 27, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–8807 Filed 4–28–05; 2:17 pm]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Intent To Prepare a Joint Environmental Impact Statement and Environmental Impact Report for Lower American River Common Features Project, Mayhew Levee Raise

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The action being taken is an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) to address potential improvements to the existing flood management systems along the American River. This portion of the Lower American River Common Features project is located in Sacramento County. The Corps of Engineers is in the process of completing slurry wall work on approximately 26 miles of levee along the American River. In 1996, Congress authorized the raising of levees along the American River in the Mayhew Drain area under the American River Common Features project. Subsequently, section 366 of the Water Resources Development Act of 1999 authorized the raising of the left bank of the non-Federal levee upstream of the Mayhew Drain for a distance of 4,300 feet and the installation of gates to the existing Mayhew Drain culvert.

DATES: A public meeting will be held on May 23, 2005, from 6 p.m. to 8 p.m., Sacramento, CA.

ADDRESSES: Send written comments and suggestions concerning this study to Ms. Elizabeth Holland, U.S. Army Corps of Engineers, Sacramento District, Attn: Planning Division (CESPK–PD–R), 1325 J Street, Sacramento, CA 95814. Requests to be placed on the mailing list should also be sent to this address. The public meeting address is O.W. Erlewine School, 2441 Stansberry Way, Sacramento, CA 95826–2120.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Holland, e-mail at *Elizabeth.g.Holland@usace.army.mil,* telephone (916) 557–6763 or fax (916) 557–7856.

SUPPLEMENTARY INFORMATION:

1. Proposed Action: The Corps of Engineers, the State of California, and the Sacramento Area Flood Control Agency are conducting a study on the American River flood control system. The study focuses on ways to improve flood protection to the city of Sacramento, including raising the levees along the river in the Mayhew Drain area.

2. Alternatives: The draft EIS/EIR will address an array of alternatives. Alternatives analyzed during the investigation will include no action, a full levee with a 3:1 slope, a levee with a 3:1 slope and partial floodwall, and a levee with a 2:1 slope and partial floodwall.

3. Scoping Process: a. The project study plan provides for a scoping meeting to be held in May 2005 (*see* **DATES** & **ADDRESSES**). The Corps has initiated a process to involve concerned individuals, and local, State, and Federal agencies.

b. Significant issues to be analyzed in depth in the draft EIS/EIR include adverse effects on vegetation and wildlife resources, special-status species, esthetics, cultural resources, recreation, land use, air quality, and cumulative effects of related projects in the study area.

c. The Corps will consult with the State Historic Preservation Officer to comply with the National Historic Preservation Act, and the U.S. Fish and Wildlife Service to provide a Fish and

Wildlife Coordination Act Report as an appendix to the draft EIS/EIR.

d. A 45-day public review period will be provided for individuals and agencies to review and comment on the draft EIS/EIR. All interested parties are encouraged to respond to this notice and provide a current address if they wish to be notified of the draft EIS/EIR circulation.

4. Availability: The draft EIS/EIR is scheduled to be available for public review and comment late in calendar year 2005.

Dated: April 20, 2005.

Mark W. Connelly,

Lt. Colonel, Corps of Engineers, Deputy District Engineer.

[FR Doc. 05–8666 Filed 4–29–05; 8:45 am]

BILLING CODE 3710–EZ–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Fernald

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EMSSAB), Fernald. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Saturday, May 14, 2005; 8:30 a.m.–12 p.m.

ADDRESSES: Ross Township Firehouse, 2565 Cincinnati-Brookville Road, Ross Township, Ohio 45061.

FOR FURTHER INFORMATION CONTACT: Doug Sarno, The Perspectives Group, Inc., 1055 North Fairfax Street, Suite 204, Alexandria, VA 22314, at (703) 837–1197, or e-mail; *djsarno@theperspectivesgroup.com.*

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

8:30 a.m. Call to Order
8:35 a.m. Updates and Announcements
—Projects Updates
—Ex-Officio Updates
—Silos Projects Status
—Site Transition Update
9:15 a.m. Review Legacy Management and Institutional Controls Plan
10 a.m. Break
10:15 a.m. Public Participation during Site Transition
11 a.m. Educators' Roundtable Debrief
11:20 a.m. Site-Specific Advisory Board Chairs' Meeting Debrief
11:40 a.m. Review Fernald Citizens' Advisory Board Meeting Schedule
11:50 a.m. Public Comment
12 p.m. Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Board chair either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Board chair at the address or telephone number listed below. Requests must be received five days prior to the meeting and reasonable provisions will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments. This **Federal Register** notice is being published less than 15 days prior to the meeting date due to programmatic issues that had to be resolved prior to the meeting date.

Minutes: The minutes of this meeting will be available for public review and copying at the Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to the Fernald Citizens' Advisory Board, Phoenix Environmental Corporation, MS–76, Post Office Box 538704, Cincinnati, OH 43253–8704, or by calling the Advisory Board at (513) 648–6478.

Issued at Washington, DC, on April 27, 2005.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 05–8678 Filed 4–29–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EMSSAB), Paducah. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, May 19, 2005, 5:30 p.m.–9:30 p.m.

ADDRESSES: 111 Memorial Drive, Barkley Centre, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: William E. Murphie, Deputy Designated Federal Officer, Department of Energy Portsmouth/Paducah Project Office, 1017 Majestic Drive, Suite 200, Lexington, Kentucky 40513, (859) 219–4001.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

5:30 p.m. Informal Discussion
6 p.m. Call to Order, Introductions, Review of Agenda, Approval of April Minutes
6:05 p.m. Deputy Designated Federal Officer's Comments
6:25 p.m. Federal Coordinator's Comments
6:30 p.m. Ex-officios' Comments
6:40 p.m. Public Comments and Questions
6:50 p.m. Task Forces/Presentations
- Waste Disposition Taskforce
—Scrap Metal Project Overview
—DOE Materials Storage Area Project Overview
- Water Quality Task Force
- Long Range Strategy/Stewardship Task Force
- Community Outreach Task Force
—Website Update

7:50 p.m. Public Comments and Questions
8 p.m. Break
8:10 p.m. Administrative Issues
- Review of Workplan
- Review of Next Agenda

8:20 p.m. Review of Action Items
8:25 p.m. Subcommittee Reports
- Executive Committee

8:40 p.m. Final Comments
9:30 p.m. Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact David Dollins at the address listed below or by telephone at (270) 441–6819. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and

copying at the Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information Center and Reading Room at 115 Memorial Drive, Barkley Centre, Paducah, Kentucky between 8 a.m. and 5 p.m., on Monday thru Friday by writing to David Dollins, Department of Energy, Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001 or by calling him at (270) 441–6819.

Issued at Washington, DC, on April 27, 2005.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 05–8679 Filed 4–29–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–2268–012, et al.]

Pinnacle West Capital Corporation, et al.; Electric Rate and Corporate Filings

April 25, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Pinnacle West Capital Corporation; Arizona Public Service Company; Pinnacle West Energy Corporation; APS Energy Services Company, Inc.; GenWest, LLC

[Docket Nos. ER00–2268–012, ER99–4124–010, ER00–3312–011, ER99–4122–013, ER03–352–003]

Take notice that on April 20, 2005, Pinnacle West Capital Corporation, Arizona Public Service Company, Pinnacle West Energy Corporation and APS Energy Services Company, Inc. (collectively the Pinnacle West Companies), and GenWest LLC filed a notice of change in status and revised tariff sheets pursuant to the Commission's Order No. 652 issued February 10, 2005 in Docket No. RM04–14–000, *Reporting Requirement for Changes in Status for Public Utilities With Market-Based Rate Authority,* 110 FERC ¶ 61,097 (2005).

Comment Date: 5 p.m. Eastern Time on May 5, 2005.

2. Pinnacle West Capital Corporation; Arizona Public Service Company; Pinnacle West Energy Corporation; APS Energy Services Company, Inc.; Arizona Public Service Company, *et al.*

[Docket Nos. ER00–2268–013, EL05–10–000, ER99–4124–011, EL05–11–000, ER00–3312–012, EL05–12–000, ER99–4122–014, EL05–13–000, EC05–20–000]

Take notice that on April 22, 2005, Pinnacle West Capital Corporation, Arizona Public Service Company, Pinnacle West Energy Corporation, and APS Energy Services Company, Inc. filed a response to a deficiency letter issued April 5, 2005 in the dockets noted above.

Comment Date: 5 p.m. Eastern Time on May 5, 2005.

3. Mirant Americas Energy Marketing, LP; Mirant California, LLC; Mirant Delta, LLC; Mirant Potrero, LLC; Mirant New England, LLC; Mirant Canal, LLC; Mirant Kendall, LLC; Mirant Bowline, LLC; Mirant Lovett, LLC; Mirant NY-Gen, LLC; Mirant Chalk Point, LLC; Mirant Mid-Atlantic, LLC; Mirant Peaker, LLC; Mirant Potomac River, LLC; Mirant Zeeland, LLC; West Georgia Generating Company, LLC; Mirant Sugar Creek, LLC; Shady Hills Power Company, LLC; Wrightsville Power Facility, LLC; Mirant Energy Trading, LLC; Mirant Oregon, LLC; Mirant Las Vegas, LLC

[Docket Nos. ER01–1265–005, ER01–1267–006, ER01–1270–006, ER01–1278–006, ER01–1274–006, ER01–1268–006, ER01–1271–006, ER01–1266–005, ER01–1272–005, ER01–1275–005, ER01–1269–005, ER01–1273–005, ER01–1276–005, ER01–1277–005, ER01–1263–005, ER02–1052–004, ER02–900–004, ER02–537–005, ER02–1028–004, ER02–1213–004, ER02–1331–006, ER03–160–004]

Take notice that on April 19, 2005, the above-referenced entities, collectively the Mirant Entities, tendered for filing a response to a deficiency letter issued by Director, Division of Tariffs and Market Development—South concerning the Mirant Entities updated market power analysis submitted on November 9, 2004.

Comment Date: 5 p.m. Eastern Time on May 10, 2005.

4. Powerex Corp.

[Docket No. ER01–48–004]

Take notice that on April 20, 2005, Powerex Corp. (Powerex) submitted its Notice of Change in Status with respect to events that have taken place since the Commission approved Powerex's most recent market power analysis. In addition, Powerex states that it submitted First Revised Sheet No. 5 and Original Sheet No. 6 to its Second Revised Rate Schedule No. 1 to incorporate the change in status reporting requirements announced by the Commission in Order No. 652, *Reporting Requirements for Changes in Status for Public Utilities With Market-Based Rate Authority,* Docket No. RM04–14, issued February 10, 2005, 110 FERC ¶ 61,097 (2005).

Powerex states that copies of the filing were served upon the official service list compiled by the Secretary in this proceeding.

Comment Date: 5 p.m. Eastern Time on May 11, 2005.

5. GWF Energy LLC

[Docket No. ER01–2233–004]

Take notice that, on April 21, 2005, GWF Energy LLC submitted revisions to its market-based tariff in compliance with the Commission's order issued March 25, 2005 in Docket Nos. ER01–2233–002 and ER01–2233–003, *GWF Energy LLC,* 110 FERC ¶ 61,352 to incorporate the change in status reporting requirement adopted by the Commission in Order No. 652 issued February 10, 2005 in Docket No. RM04–14–000, *Reporting Requirement for Changes in Status for Public Utilities With Market-Based Rate Authority,* 70 FR 8253 (Feb. 18, 2005), FERC Stats. & Regs., Regulations Preambles ¶ 31,175 (2005).

GWF Energy LLC states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Comment Date: 5 p.m. Eastern Time on May 12, 2005.

6. Oregon Electric Utility Company, Portland General Electric Company, Portland General Term Power Procurement Company

[Docket Nos. ER04–1206–000, ER04–1206–001, ER04–1206–002]

Take notice that on April 8, 2005, Oregon Electric Utility Company, Portland General Electric Company and Portland General Term Power Procurement Company filed a withdrawal of the September 8, 2004, September 29, 2004 and January 21, 2005 filings in the above-referenced Docket Numbers.

Comment Date: 5 p.m. Eastern Time on May 5, 2005.

7. Midwest Independent Transmission System Operator, Inc.; Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, LLC, *et al.*; Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, LLC, *et al.*; Ameren Services Company, *et al.*

[Docket Nos. ER05–6–018, EL04–135–020, EL02–111–038, EL03–212–34]

Take notice that on April 20, 2005, as amended on April 22, 2005, American Electric Power Service Corporation (on behalf of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company and Wheeling Power Company), Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc., Dayton Power and Light Company and Duquesne Light Company (collectively Companies) submitted for filing revisions to reflect corrections to errors in Attachments X and R of the PJM Interconnection, L.L.C.'s open access transmission tariff, effective April 1, 2005. Companies state that this filing is also being made on behalf of the PJM and PJM West Transmission Owners Agreement Administrative Committees. The Companies request an effective date of April 1, 2005.

The Companies state that a copy of this filing has been served on the official service lists in these proceedings.

Comment Date: 5 p.m. Eastern Time on May 11, 2005.

8. Milford Power Company, LLC

[Docket No. ER05–163–003]

Take notice that, on April 21, 2005, Milford Power Company, LLC (Milford) submitted a compliance filing pursuant to the Commission's order issued March 22, 2005, in Docket No. ER05–163–000, *Milford Power Company, LLC,* 110 FERC ¶ 61,299.

Milford states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Comment Date: 5 p.m. Eastern Time on May 12, 2005.

9. Sempra Generation

[Docket No. ER05–440–002]

Take notice that on April 20, 2005, Sempra Generation (formerly, Sempra Energy Resources) submitted revised tariff sheets in compliance with the Commission's March 25, 2005 order, 110 FERC ¶ 61,344, to incorporate the language required by Order No. 652 pertaining to notices of changes in status.

Comment Date: 5 p.m. Eastern Time on May 11, 2005.

10. Mendota Hills LLC

[Docket No. ER05–463–001]

Take notice that on April 21, 2005, Mendota Hills LLC submitted a refund report in compliance with the order issued by the Commission on March 3, 2005 in Docket No. ER05–463–000.

Mendota Hills LLC states that copies of the filing were served on parties on the official service list in this proceeding.

Comment Date: 5 p.m. Eastern Time on May 12, 2005.

11. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER05–636–001]

Take notice that on April 20, 2005, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) amended its February 23, 2005 filing in Docket No. ER05–636–000 to provide an exhibit.

Midwest ISO states that a copy of this filing was served on all parties on the service list maintained by the Secretary in this proceeding.

Comment Date: 5 p.m. Eastern Time on May 11, 2005.

12. NorthWestern Energy

[Docket No. ER05–691–001]

Take notice that on April 21, 2005, NorthWestern Energy submitted a revised cover letter to its March 10, 2005 filing to correct a typographical error with regard to the proposed effective date of an executed Generation Interconnection Agreement between NorthWestern Energy (Montana) and Exergy Development Group, LLC. The proposed effective date is April 10, 2005.

Comment Date: 5 p.m. Eastern Time on May 9, 2005.

13. Yoakum Electric Generating Cooperative, Inc.

[Docket No. ER05–739–001]

Take notice that on April 20, 2005 Yoakum Electric Generating Cooperative, Inc., (Yoakum) submitted for filing a corrected market-based rate tariff to correct a pagination error in its March 29, 2005 filing. Yoakum states that the corrected market-based rate tariff also incorporates the change in status reporting requirements adopted by the Commission in Order No. 652.

Comment Date: 5 p.m. Eastern Time on May 11, 2005.

14. New England Power Company

[Docket No. ER05–835–001]

Take notice that on April 20, 2005, New England Power Company (NEP) submitted an amendment to its April 18, 2005 filing of two local service agreements for local network service with Bear Swamp Power Co., LLC (Bear Swamp Power), under ISO New England Inc.'s Transmission, Markets and Services Tariff (ISO New England Inc., FERC Electric Tariff No. 3).

NEP states that a copy of this filing has been served upon Bear Swamp Power, ISO New England Inc., and regulators in the Commonwealth of Massachusetts.

Comment Date: 5 p.m. Eastern Time on May 11, 2005.

15. Pacific Gas and Electric Company

[Docket No. ER05–844–000]

Take notice that on April 20, 2005, Pacific Gas and Electric Company (PG&E) submitted a filing revising its transmission owner tariff to recover costs associated with the California Independent System Operator Corporation's CAISO's self-supply of station power initiative.

PG&E states that copies of this filing have been served upon the CAISO and the California Public Utilities Commission.

Comment Date: 5 p.m. Eastern Time on May 11, 2005.

16. North Jersey Energy Associates, L.P.

[Docket No. ER05–845–000]

Take notice that on April 20, 2005, North Jersey Energy Associates, L.P. (NJEA) submitted its rate schedule and supporting cost data for a proposed reactive support and voltage control from generation sources service for its cogeneration facility located in Sayreville, New Jersey. NJEA requests an effective date of June 1, 2005.

Comment Date: 5 p.m. Eastern Time on May 11, 2005.

17. MidAmerican Energy Company

[Docket No. ER05–846–000]

Take notice that on April 20, 2005, MidAmerican Energy Company (MidAmerican), submits for filing a network integration transmission service agreement and a network operating agreement between MidAmerican Energy Company and the Eldridge Electric and Water Utilities (Eldridge). MidAmerican requests an effective date of May 1, 2005.

MidAmerican states that it has served a copy of the filing on Eldridge, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment Date: 5 p.m. Eastern Time on May 11, 2005.

18. Central Vermont Public Service Corporation, Green Mountain Power Corporation

[Docket No. ER05–847–000]

Take notice that on April 20, 2005, Central Vermont Public Service Corporation (Central Vermont) and Green Mountain Power Corporation (Green Mountain) (collectively, the Companies), jointly tendered for filing a revised transmission service agreement between Central Vermont and Green Mountain to change references in the formula rate to the local service schedule of each Company in the ISO New England, Inc. Transmission, Markets and Service Tariff. The Companies state that the transmission service agreement has been designated as Central Vermont's First Revised Rate Schedule No. 188 and Green Mountain's First Revised Rate Schedule 132. The Companies request an effective date of February 1, 2005.

The Companies state that copies of the filing were served upon the Vermont Public Service Board.

Comment Date: 5 p.m. Eastern Time on May 11, 2005.

19. ISO New England Inc. and New England Power Company

[Docket No. ER05–848–000]

Take notice that on April 21, 2005, ISO New England Inc. (ISO–NE) and New England Power Company (NEP) (collectively, the Filing Parties), submitted an executed service agreement for a large generator interconnection (Agreement) with Ridgewood Power Management, LLC. The Filing Parties state that the Agreement has been designated as a service agreement under ISO–NE's Open Access Transmission Tariff (Section II of the ISO–NE Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3). The Filing Parties state that the Agreement concerns the interconnection of Ridgewood Rhode Island Generation, Phase 2, a six (6) MW generating facility.

ISO–NE states that paper copies of said filing have been served on New England Power Company and Ridgewood Power Management, LLC and have been sent to the New England state governors and regulatory agencies, and electronic copies were sent to the ISO's Governance Participants.

Comment Date: 5 p.m. Eastern Time on May 12, 2005.

20. Delta Energy Center, LLC

[Docket No. ER05–854–000]

Take notice that on April 18, 2005, Delta Energy Center, LLC (Delta) submitted a revised rate schedule sheet to Delta Energy Center, LLC Rate Schedule FERC No. 2 for the reliability must-run service agreement between Delta and the California Independent System Operator Corporation to reflect changes to certain generation ranges and the addition of generation ranges related to Ramp Rates. Delta requests an effective date of May 1, 2005.

Delta states that copies of the filing were served upon the official service list for Docket No. ER03–510–000.

Comment Date: 5 p.m. Eastern Time on May 9, 2005.

21. Detroit Edison Company

[Docket No. ES04–10–001]

Take notice that on April 22, 2005, Detroit Edison Company (Detroit Edison) filed an application pursuant to section 204 of the Federal Power Act. The application requests that the Commission amend the authorization to issue senior notes previously granted on January 30, 2004, in Docket No. ES04–10–000, to permit Detroit Edison to issue new debt securities that have been registered with the Securities and Exchange Commission in exchange for an equal principal amount of outstanding debt securities previously issued under the prior authorization.

Detroit Edison also requests a waiver of the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment Date: 5 p.m. Eastern Time on May 6, 2005.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all parties to this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–2076 Filed 4–29–05; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[RCRA–2005–0008, FRL–7906–2]

Agency Information Collection Activities: Proposed Collection; Comment Request; RCRA Hazardous Waste Permit Application and Modification, Part A, EPA ICR Number 0262.11, OMB Control Number 2050–0034

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). This is a request for an existing approved collection. This ICR is scheduled to expire on August 31, 2005. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before July 1, 2005.

ADDRESSES: Submit your comments, referencing docket ID number RCRA–2005–0008, to EPA online using EDOCKET (our preferred method), by email to *RCRA-docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, RCRA Docket, mail code 5305T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Jenny Stephenson, Office of Solid Waste (5303W), Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,

Washington, DC 20460, (703) 308–9035; or by email *stephenson.jenny@epa.gov.*,

SUPPLEMENTARY INFORMATION: EPA has established a public docket for this ICR under Docket ID number RCRA–2005–0008, which is available for public viewing at the RCRA Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the RCRA Docket is (202) 566–0270. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket*. Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA within 60 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov./edocket*.

Affected entities: Business or other for-profit, State, local or tribal governments.

Title: RCRA Hazardous Waste Permit Application and Modification, Part A.

Abstract: Section 3010 of Subtitle C of RCRA, as amended, requires any person who generates or transports regulated waste or who owns or operates a facility for the treatment, storage, or disposal (TSDF) of regulated waste to notify EPA of their activities, including the location and general description of activities and the regulated wastes managed. Section 3005 of Subtitle C of RCRA requires TSDFs to obtain a permit. To obtain the permit, the TSDF must submit an application describing the facility's operation. There are two parts to the RCRA permit application—Part A and Part B. Part A defines the processes to be used for treatment, storage, and disposal of hazardous wastes: The design capacity of such processes: and the specific hazardous wastes to be handled at the facility. Part B requires detailed site specific information such as geologic, hydrologic, and engineering data.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 25 hours per response for an initial Part A Application and 13 hours per response for a revised Part A application. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Estimated Number of Respondents: 36.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 576 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $1,000.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: April 25, 2005.

Matthew Hale,

Director, Office of Solid Waste.

[FR Doc. 05–8706 Filed 4–29–05; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the

premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans No.	Acquiring	Acquired	Entities
TRANSACTIONS GRANTED EARLY TERMINATION—03/14/2005			
20050670	Perry Partners L.P	Regions Financial Corporation	Capital Factors Holding, Inc.
20050681	Brian C. Rogers	T. Rowe Price Group, Inc	T. Rowe Price Group, Inc.
20050682	Alion Science and Technology Corporation.	John J. McMullen Associates, Inc	John J. McMullen Associates, Inc.
20050683	TelCove, Inc	KMC Telecom Holdings, Inc	KMC Financial Services LLC, KMC Telecom II Inc., KMC Telecom II LLC, KMC Telecom LLC, KMC Telecom of Virginia, Inc.
20050686	Century Tel, Inc	KMC Telecom Holdings, Inc	KMC Financial Services LLC, KMC Telecom III LLC, KMC Telecom II Inc., KMC Telecom LLC, KMC Telecom of Virginia, Inc.
20050687	SAP AG	Retek, Inc	Retek, Inc.
20050689	BCE Inc	Craig O. McCaw	Clearwire Corporation.
20050697	Charterhouse Equity Partners IV, L.P	Amerifit Nutrition, Inc	Amerifit Nutrition, Inc.
20050698	BLB Investors, L.L.C	Wembley, plc	Wembley Inc.
20050699	News Corporation	Cablevision Systems Corporation	Cablevision Systems Corporation.
20050708	Cablevision Systems Corporation	Cablevision Systems Corporation	Regional Programming Partners.
TRANSACTIONS GRANTED EARLY TERMINATION—03/15/2005			
20050613	Nanometrics Incorporated	August Technology Corporation	August Technology Corporation.
20050694	H.J. Heinz Company	George E. King	Appetizers And, Inc.
20050695	H.J. Heinz Company	Patricia J. Domanik	Appetizers And, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—03/16/2005			
20050674	J.P. Morgan Chase & Co	Progress Energy, Inc	Progress Metal Reclamation Company, Progress Rail Services Corporation.
TRANSACTIONS GRANTED EARLY TERMINATION—03/17/2005			
20050623	Ingram Industries Inc	Riverway Co	Riverway Harbor Service St. Louis, Inc.
20050693	Apollo Investment Fund IV, L.P	Hughes Network Systems, LLC	Hughes Network Systems, LLC.
TRANSACTIONS GRANTED EARLY TERMINATION—03/18/2005			
20050676	Dyson, Dyson & Dunn, Inc	McGard, Inc	D.J.P. Realty Associates LLC, L.D. McCauley, Inc., McGard Deutschland GmbH, McGard, Inc.
20050684	Onex Partner L.P	The Boeing Company	The Boeing Company.
20050700	SECOM Co., Ltd	Cortec Group Fund II, L.P	Switchcraft, Inc.
20050709	Henry Samueli	The Walt Disney Company	DCSR, Inc., Mighty Ducks Hockey Club, Inc.
20050710	St. Jude Medical, Inc	Velocimed LLC	Velocimed DMC, Inc. Velocimed, Inc., Velocimed PFO, Inc.
20050713	Oracle Corporation	Retek Inc	Retek Inc.
20050714	GGC Investment Fund II, L.P	Blue Martini Software, Inc	Blue Martini Software, Inc.
20050716	Johnson & Johnson	TransForm Pharmaceuticals, Inc	TransForm Pharmaceuticals, Inc.
20050718	The McGraw-Hill Companies, Inc	James D. Power III	J.D. Power and Associates.
20050719	GTEL Holdings, Inc	AT&T Corp	TCG Payphones, Inc., TCG Public Communications, Inc.
20050721	Warburg Pincus Private Equity VIII, L.P.	New Breed, Inc	New Breed, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—03/21/2005			
20050632	Danielson Holding Corporation	American Ref-Fuel Holdings Corp	American Ref-Fuel Holdings Corp.
TRANSACTIONS GRANTED EARLY TERMINATION—03/22/2005			
20050690	Partners Limited	Verizon Communications Inc	Verizon Communications Inc.
20050691	Emera Inc	Verizon Communications	Verizon Communications Inc.
20050703	Esmark Incorporated	Brian R. Williamson	Miami Valley Steel Service Inc.
20050711	U.S. Equity Partners II (U.S. Parallel), L.P.	Global Hyatt Corporation	Bassett Ready-Mix Co., Inc., Meyer Material Company, Paveloc Industries, Inc.

Trans No.	Acquiring	Acquired	Entities
20050722	First Horizon Pharmaceutical Corporation.	Andrx Corporation	Andrx EU Ltd., Andrx Laboratories, Inc., Andrx Laboratories (NJ), Inc., Andrx Labs, LLC.
20050725	Monitor Clipper Equity Partners II, L.P.	HIG–MSC, Inc	MSC Acquisition, Inc.
20050733	BB&T Corporation	Sterling Capital Management LLC	New Sterling LLC.
TRANSACTIONS GRANTED EARLY TERMINATION—03/23/2005			
20050701	Barry Diller	Cornerstone Brands, Inc	Cornerstone Brands, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—03/24/2005			
20050644	Monsanto Company	HMTF Equity Fund IV (1999) Cayman, L.P.	Emergent Genetics, Inc.
20050724	Crimson Velocity Fund, L.P	R. T. Groos, LLC	Tyden Group, Inc.
20050731	A.A. Mordashov	Lucchini S.p.A	Lucchini S.p.A.
TRANSACTIONS GRANTED EARLY TERMINATION—03/25/2005			
20050723	New Mountain Partners II, L.P	Kenneth E. and Tena R. deLaski	Deltek Systems, Inc.
20050727	Spectrum Equity Investors IV, L.P	Pegasus Partners II, L.P	Classic Media, Inc.
20050735	Yitzkah Sharon-shareholder of The Delek Group.	Rosemore, Inc	La Gloria Oil and Gas Company, MPC Land Acquisition, Inc., MPC Pipeline Acquisition, Inc.
20050736	BT Group plc	Reuters Group PLC	Radianz Ltd.
20050739	Thoma Cressey Fund VII, L.P	Datatel, Inc	Datatel, Inc.
20050747	Behrman Capital III L.P	2000 Riverside Capital Appreciation Fund, L.P.	Selig Holdings Corporation.
TRANSACTIONS GRANTED EARLY TERMINATION—03/29/2005			
20050688	Chiquita Brands International, Inc	Performance Food Group Company	Fresh Advantage, Inc., Fresh International Corp., K.C. Salad Holdings, Inc., Redi-Cut Foods, Inc.
20050732	Atlas Pipeline Partners, L.P	Energy Transfer Partners, L.P	ETC Oklahoma Pipeline, Ltd.
20050742	Partners Limited	Weyerhaeuser Company	Weyerhaeuser Company Limited.
20050743	Cenex Finance Association, Inc	CHS Inc	Fin-Ag, Inc.
20050745	Industrial Growth Partner II, L.P	Wingate Partners III, L.P	AmerCable Incorporated.
20050751	VF Corporation	SPC Partners II, L.P	Reef Holdings Corporation.
TRANSACTIONS GRANTED EARLY TERMINATION—03/30/2005			
20050738	Verizon Communications Inc	MetroPCS, Inc	GWI PCS1, Inc.
20050740	Brown Shoe Company, Inc	Heritage Fund III, L.P	Bennett Footwear Holdings, LLC, Bennett Investment Corporation.
TRANSACTIONS GRANTED EARLY TERMINATION—04/01/2005			
20050749	Belgacom S.A	Belgacom International Carrier Services, S.A.	Belgacom International Carrier Services, S.A.
20050753	Erich Wesjohann GmbH & Co. KG	Aviagen International Group, Inc	Aviagen International Group, Inc.
2005070	Gilead Sciences, Inc	Japan Tobacco, Inc	Japan Tobacco, Inc.
20050761	Global Private Equity IV Limited Partnership.	Peterson Capital II, LLC	Making Memories Wholesale, Inc.
20050765	Icelandic Group plc	Sjovik ehf	Sjovik ehf.
TRANSACTIONS GRANTED EARLY TERMINATION—04/04/2005			
20050706	Boston Scientific Corporation	TriVascular, Inc	TriVascular, Inc.
20050771	Boston Scientific Corporation	Cryo Vascular Systems, Inc	Cryo Vascular Systems, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—04/05/2005			
20050755	The Goldman Sachs Group, Inc	Selim K. Zilkha	Zilkha Renewable Energy, LLC.
TRANSACTIONS GRANTED EARLY TERMINATION—04/07/2005			
20050712	J.P. Morgan Chase & Co	SAVVIS Communications Corporation.	SAVVIS Communications Corporation.
20050766	International Business Machines Corporation.	Ascential Software Corporation	Ascential Software Corporation.
20050767	Siemens Aktiengesellschaft	CTI Molecular Imaging, Inc	CTI Molecular Imaging, Inc.

For Further Information Contact: Sandra M. Peay, Contract Representative, or Renee Hallman, Case Management Assistant, Federal Trade Commission, Premerger Notification Office, Bureau of competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 05–8618 Filed 4–29–05; 8:45 am]

BILLING CODE 6750–01–M

OFFICE OF GOVERNMENT ETHICS

Review of Criminal Conflict of Interest Statutes; Opportunity for Comment

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice.

SUMMARY: The Office of Government Ethics is conducting a review, pursuant to the Intelligence Reform and Terrorism Prevention Act of 2004, of the criminal conflict of interest statutes relating to executive branch employment. This notice provides the public and agencies an opportunity to comment.

DATES: Any comments from the public and the agencies must be received by June 20, 2005.

ADDRESSES: You may submit comments to OGE by any of the following methods:

- *E-mail: usoge@oge.gov.* For E-mail messages, the subject line should include the following reference: ''Comments Regarding Criminal Conflict of Interest Statutes Review.''
- *Fax:* (202) 482–9237.
- *Mail, Hand Delivery or Courier:* Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005–3917, Attention: Stuart D. Rick, Deputy General Counsel.

FOR FURTHER INFORMATION CONTACT: Stuart D. Rick, Deputy General Counsel, Office of Government Ethics, telephone: (202) 482–9300; TDD: (202) 482–9293; FAX: (202) 482–9237.

SUPPLEMENTARY INFORMATION: Section 8403(d) of the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458 (December 17, 2004), directs the Office of Government Ethics, in consultation with the Department of Justice, to conduct a comprehensive review of the conflict of interest laws relating to executive branch employment. By December 17, 2005, OGE must submit a report to the President and pertinent Congressional committees reflecting its findings. OGE will review 18 U.S.C. 203, 205, 207, 208, and 209, and make recommendations for appropriate revisions that will both enhance Government effectiveness and protect the integrity of Government operations. To assist us in our review, OGE is seeking the views of the public and Federal agencies concerning the need for improvements to the criminal conflict of interest statutes. Interested persons may submit written comments to OGE by June 20, 2005.

Approved: April 27, 2005.

Marilyn L. Glynn,

Acting Director, Office of Government Ethics.

[FR Doc. 05–8691 Filed 4–29–05; 8:45 am]

BILLING CODE 6345–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Blood Safety and Availability

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the Advisory Committee on Blood Safety and Availability (ACBSA) will hold a meeting. This meeting is open to the public.

DATES: The meeting will be held on Monday, May 16, 2005 and Tuesday, May 17, 2005 from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Bethesda North Marriott Hotel and Conference Center, 5701 Marinelli Road, North Bethesda, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Jerry A. Holmberg, Ph.D., Executive Secretary, Advisory Committee on Blood Safety and Availability, Office of Public Health and Science, Department of Health and Human Services, 1101 Wootton Parkway, Suite 250, Rockville, MD 20852, (301) 443–2331, fax (301) 443–4788, e-mail *jholmberg@osophs.dhhs.gov.*

SUPPLEMENTARY INFORMATION: DHHS is responsible for carrying out research in health fields including diseases involving blood and blood products, and for issuing and enforcing regulations concerning the collection, preparation, and distribution of blood and blood products, and regulations related to the transmission of communicable diseases. The ACBSA advises, assists, consults with, and makes policy recommendations to the Secretary and the Assistant Secretary for Health regarding these broad responsibilities.

The Advisory Committee on Blood Safety and Availability will meet to review progress and solicit additional comments from the Committee regarding numerous recommendations made over the past year. Specifically, the Committee will hear updates and discuss previous recommendations on potential studies to standardize, validate, and determine the predictive value of bacterial testing with the intent to extend the dating of platelet products from five to seven days and the possible pre-storage pooling of whole blood derived platelets. In addition, the Committee will be asked to discuss/comment on strategies for addressing infectious agents (known or emerging) that potentially could affect the blood supply.

Public attendance at the meeting is limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person.

Members of the public will have the opportunity to provide comments at the meeting. Public comments will be limited to five minutes per speaker. Anyone planning to comment is encouraged to contact the Executive Secretary at his/her earliest convenience. Individuals who wish to have material distributed to the Committee for review and discussion are asked to provide at a minimum 30 copies for this purpose. If the requested amount of copies cannot be provided, a copy of the document should be provided to the Executive Secretary for duplication purposes no later than May 11, 2005.

Dated: April 26, 2005.

Jerry A. Holmberg,

Executive Secretary, Advisory Committee on Blood Safety and Availability.

[FR Doc. 05–8669 Filed 4–29–05; 8:45 am]

BILLING CODE 4150–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

National Advisory Council for Healthcare Research and Quality: Request for Nominations for Public Members

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Request for nominations for public members.

SUMMARY: 42 U.S.C. 299c, section 921 of the Public Health Service (PHS Act), established a National Advisory Council for Healthcare Research and Quality (the Council). The Council is to advise the Secretary of HHS and the Director of the Agency for Healthcare Research and Quality (AHRQ) on matters related to actions of the Agency to enhance the quality, improve the outcomes, and reduce the costs of health care services, as well as improve access to such services, through scientific research and the promotion of improvements in clinical practice and in the organization, financing, and delivery of health care services.

Seven current members' terms will expire in November 2005. To fill these positions in accordance with the legislative mandate establishing the Council, we are seeking individuals who are distinguished in the conduct of research, demonstration projects, and evaluations with respect to health care; individuals distinguished in the fields of health care quality research or health care improvement; individuals distinguished in the practice of medicine; individuals distinguished in the other health professions; individuals either representing the private health care sector (including health plans, providers, and purchasers) or individuals distinguished as administrators of health care delivery systems; individuals distinguished in the fields of health care economics, management science, information systems, law, ethics, business, or public policy; and individuals representing the interests of patients and consumers of health care. Individuals are particularly sought with experience and success in activities specified in the preceding summary paragraph above, describing the statutory mandates and work of the Agency.

DATES: Nominations should be received on or before June 10, 2005.

ADDRESSES: Nominations should be sent to Ms. Deborah Queenan, AHRQ, 540 Gaither Road, Room 3238, Rockville, Maryland 20850. Nominations also may be faxed to (301) 594–1341.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Queenan, AHRQ, at (301) 594–1330.

SUPPLEMENTARY INFORMATION: 41 U.S.C. 229c, section 921 of the PHS Act, provides that the National Advisory Council for Healthcare Research and Quality shall consist of 21 appropriately qualified representatives of the public appointed by the Secretary of Health and Human Services and, in addition, ex officio representatives from other Federal agencies specified in the authorizing legislation, principally agencies that conduct or support health care research, as well as Federal officials the Secretary may consider appropriate. The Council meets in the Washington, DC, metropolitan area, generally in Rockville, Maryland, approximately three times a year to provide broad guidance to the Secretary and AHRQ's Director on the direction and programs for AHRQ.

Seven individuals will presently be selected by the Secretary to serve on the Council beginning with the meeting in the fall of 2005. Members generally serve 3-year terms. Appointments are staggered to permit an orderly rotation of membership.

Interested persons may nominate one or more qualified persons for membership on the Council. Nominations shall include a copy of the nominee's resume or curriculum vitae, and state that the nominee is willing to serve as a member of the Council. Potential candidates will be asked to provide detailed information concerning their financial interests, consultant positions, and research grants and contracts, to permit evaluation of possible sources of conflict of interest.

The Department is seeking a broad geographic representation and has special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory bodies and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, and/or physically handicapped candidates.

Dated: April 21, 2005.

Carolyn M. Clancy,

Director.

[FR Doc. 05–8802 Filed 4–28–05; 2:17 pm]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects: Title: Annual Statistical Report on Children in Foster Homes and Children in Families Receiving Payment in Excess of the Poverty Income Level from a State Program Funded Under Part A of Title IV of the Social Security Act.

OMB No.: 0970–0004.

Description: The Department of Health and Human Services is required to collect these data under section 1124 of Title I of the Elementary and Secondary Education Act, as amended by Public Law 103–382. The data are used by the U.S. Department of Education for allocation of funds for programs to aid disadvantaged elementary and secondary students. Respondents include various components of State Human Service agencies.

Respondents: The 52 respondents include the 50 States, the District of Columbia, and Puerto Rico.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Annual Statistical Report on Children in Foster Homes and Children Receiving Payments in Excess of the Poverty Level from a State Program Funded Under Part A of Title IV of the Social Security Act	52	1	264.35	13,746

Estimated Total Annual Burden Hours: 13,746.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address:

grjohnson@acf.hhs.gov. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: April 25, 2005.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 05–8710 Filed 4–29–05; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Privacy Act of 1974, as amended; Computer Matching Program

AGENCY: Office of Child Support Enforcement (OCSE), ACF, DHHS.

ACTION: Notice of a computer matching program.

SUMMARY: In compliance with the Privacy Act of 1974, as amended by Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, we are publishing a notice of a computer matching program that OCSE will conduct on behalf of itself and State Temporary Assistance for Needy Families (TANF) programs to facilitate the verification of eligibility of TANF recipients. The match will utilize National Directory of New Hires (NDNH) records and State TANF records.

DATES: OCSE will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Government Reform and Oversight of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by writing to the Director, Division of Federal Systems, Office of Child Support Enforcement, Aerospace Building, 370 L'Enfant Promenade, SW., Washington, DC 20447. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Director, Division of Federal Systems, Office of Child Support Enforcement, Aerospace Building, 370 L'Enfant Promenade, SW., Washington, DC 20447. Telephone Number (202) 401–9271.

SUPPLEMENTARY INFORMATION: The Privacy Act (5 U.S.C. 552a), as amended, provides for certain protections for individuals applying for and receiving Federal benefits. The law regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, state and local government records.

The Privacy Act requires agencies involved in computer matching programs to:

1. Negotiate written agreements with the other agency or agencies participating in the matching programs;
2. Provide notification to applicants and beneficiaries that their records are subject to matching;
3. Verify match findings before reducing, suspending, or terminating an individual's benefits or payments;
4. Furnish detailed reports to Congress and OMB; and
5. Establish a Data Integrity Board that must approve matching agreements.

This Computer Match meets the requirements of 5 U.S.C. 552a.

Dated: April 21, 2005.

David H. Siegel,

Acting Commissioner, Office of Child Support Enforcement.

Notice of Computer Matching Program

A. Participating Agencies

OCSE and State UC programs.

B. Purpose of the Matching Program

To exchange personal data for purposes of administering an unemployment compensation program under Federal or State law.

OCSE will match UC records, furnished by State UC programs, against information in the NDNH. After matching has been conducted, OCSE will provide match results to State UC programs which will use this information to administer the UC program.

C. Authority for Conducting the Match

The authority for conducting the matching program is contained in section 453(j)(8) of the Social Security Act (42 U.S.C. 653(j)(8)).

D. Categories of Records and Individuals Covered by the Matching Program

The system of records maintained by the ACF under the Privacy Act of 1974, as amended, 5 U.S.C. 552a, from which records will be disclosed for the purpose of this computer match, is the Location and Collection system of records, DHHS/OCSE No. 09–90–0074, last published in the **Federal Register** at 69 FR 31392 on June 3, 2004. The NDNH is maintained within the Location and Collection system of records. The matching program is a routine use under this system of records.

State UC programs will provide to OCSE electronic files containing the names and other personal identifying data of UC recipients. Upon receipt of the electronic files of UC recipients, OCSE will perform a computer match against the NDNH. The NDNH database consists of Quarterly Wage, New Hire, and Unemployment Insurance information. The results of the matching program will be furnished by OCSE to State UC programs.

1. The electronic files provided by State UC programs will contain data elements of the recipient's name and Social Security number (SSN).

2. OCSE will match the SSN on the State UC file by computer against the NDNH database. Matching records, based on SSNs, will produce data elements of the individual's name, SSN, home address, and employment information.

E. Inclusive Dates of the Matching Program

The effective date of the matching agreement and date when matching may actually begin shall be July 1, 2005. This Computer Matching Notice is being published in the **Federal Register** at least 30 days prior to that date, and at least 40 days prior to that date OCSE shall send a matching program notice to the Congressional committees of jurisdiction under 5 U.S.C. 552a(o)(2)(A); and to OMB. By agreement between ACF and State UC programs, the matching program will be in effect for 18 months from the effective date, with an option to renew for 12 additional months, unless one of the parties to the agreement advises the

other by written request to terminate or modify the agreement.

[FR Doc. 05–8715 Filed 4–29–05; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Privacy Act of 1974, as amended; Computer Matching Program

AGENCY: Office of Child Support Enforcement (OCSE), ACF, DHHS.

ACTION: Notice of a computer matching program.

SUMMARY: In compliance with the Privacy Act of 1974, as amended by Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, we are publishing a notice of a computer matching program that OCSE will conduct on behalf of itself and State Agencies administering Unemployment Compensation programs under Federal or State law to facilitate the administration of such programs. The match will utilize National Directory of New Hires (NDNH) records and State Unemployment Compensation (UC) records.

DATES: OCSE will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Government Reform and Oversight of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by writing to the Director, Division of Federal Systems, Office of Child Support Enforcement, Aerospace Building, 370 L'Enfant Promenade, SW., Washington, DC 20447. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Director, Division of Federal Systems, Office of Child Support Enforcement, Aerospace Building, 370 L'Enfant Promenade, SW., Washington, DC 20447. Telephone Number (202) 401–9271.

SUPPLEMENTARY INFORMATION: The Privacy Act (5 U.S.C. 552a), as amended, provides for certain protections for individuals applying for and receiving Federal benefits. The law regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, state and local government records.

The Privacy Act requires agencies involved in computer matching programs to:

1. Negotiate written agreements with the other agency or agencies participating in the matching programs;
2. Provide notification to applicants and beneficiaries that their records are subject to matching;
3. Verify match findings before reducing, suspending, or terminating an individual's benefits or payments;
4. Furnish detailed reports to Congress and OMB; and
5. Establish a Data Integrity Board that must approve matching agreements.

This Computer Match meets the requirements of 5 U.S.C. 552a.

Dated: April 21, 2005.

David H. Siegel,

Acting Commissioner, Office of Child Support Enforcement.

Notice of Computer Matching Program

A. Participating Agencies

OSCE and State TANF programs.

B. Purpose of the Matching program

To exchange personal data for purposes of identifying individuals who are employed and also are receiving payments pursuant to TANF benefit programs being administered by State TANF programs and to verify continuing eligibility for TANF benefits.

OSCE will match public assistance records, furnished by State TANF programs, against information in the NDNH. After matching has been conducted, OSCE will provide match results to State TANF programs which will use this information to verify the continued eligibility of individuals to receive public assistance benefits and, if ineligible, to take such action, as may be authorized by law and regulation.

C. Authority for Conducting the Match

The authority for conducting the matching program is contained in section 453(j)(3) of the Social Security Act (42 U.S.C. 653(j)(3)).

D. Categories of Records and Individuals Covered by the Matching Program

The system of records maintained by the ACF under the privacy Act of 1974, as amended, 5 U.S.C. 552a, from which records will be disclosed for the purpose of this computer match, is the Location and Collection system of records, DHHS/OSCE No. 09–90–0074, last published in the **Federal Register** at 69 FR 31392 on June 3, 2004. The NDNH is maintained within the Location and Collection system of records. The matching program is a routine use under this system of records.

State TANF programs will provide to OSCE electronic files containing the names and other personal identifying data of TANF recipients. Upon receipt of the electronic files of State TANF recipients, OSCE will perform a computer match against the NDNH. The NDNH database consists of Quarterly Wage, New Hire, and Unemployment Insurance information. The results of the matching program will be furnished by OSCE to State TANF programs.

1. The electronic files provided by State TANF programs will contain data elements of the recipient's name and Social Security number (SSN).
2. OSCE will match the SSN on the State TANF file by computer against the NDNH database. Matching records, based on SSNs, will produce data elements of the individual's name, SSN, home address, and employment information.

E. Inclusive Dates of the Matching Program

The effective date of the matching agreement and date when matching may actually begin shall be July 1, 2005. This Computer Matching Notice is being published in the **Federal Register** at least 30 days prior to that date, and at least 40 days prior to that date OSCE shall send a matching program notice to the Congressional committees of jurisdiction under 5 U.S.C. 552a(o)(2)(A); and to OMB. By agreement between ACF and State TANF programs, the matching program will be in effect for 18 months from the effective date, with an option to renew for 12 additional months, unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

[FR Doc. 05–8730 Filed 4–29–05; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005D–0155]

Draft "Guidance for Industry: Toxicity Grading Scale for Healthy Adult and Adolescent Volunteers Enrolled in Preventive Vaccine Clinical Trials;" Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled ''Guidance for Industry: Toxicity Grading Scale for Healthy Adult and Adolescent Volunteers Enrolled in Preventive Vaccine Clinical Trials,'' dated April 2005. The draft guidance provides sponsors of vaccine trials with recommendations on assessing the severity of clinical and laboratory abnormalities in healthy adult and adolescent volunteers enrolled in clinical trials. In particular, the draft guidance includes toxicity grading scale tables to use as a guideline for selecting the assessment criteria.

DATES: Submit written or electronic comments on the draft guidance by August 1, 2005 to ensure their adequate consideration in preparation of the final guidance. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The draft guidance may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Brenda R. Friend, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled ''Guidance for Industry: Toxicity Grading Scale for Healthy Adult and Adolescent Volunteers Enrolled in Preventive Vaccine Clinical Trials'' dated April 2005. The draft guidance provides sponsors of vaccine trials with toxicity grading scale tables as a guideline for selecting the criteria to assess the severity of clinical and laboratory abnormalities in healthy adult and adolescent volunteers enrolled in clinical trials. The parameters in the tables are not necessarily warranted for every clinical trial of healthy volunteers. The parameters monitored should be appropriate for the specific study vaccine. In addition, the use of toxicity grading scales to categorize adverse events observed during clinical trials does not replace regulatory requirements to monitor, investigate, and report adverse events.

The draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations.

II. Comments

The draft guidance is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding the draft guidance. Submit written or electronic comments to ensure adequate consideration in preparation of the final guidance. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in the brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/cber/guidelines.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: April 22, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–8634 Filed 4–29–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories currently certified to meet the standards of subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908), on September 30, 1997 (62 FR 51118), and on April 13, 2004 (69 FR 19644).

A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://workplace.samhsa.gov* and *http://www.drugfreeworkplace.gov*.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, SAMHSA/CSAP, Room 2–1035, 1 Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. Subpart C of the Mandatory Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards that laboratories must meet in order to conduct drug and specimen validity tests on urine specimens for Federal agencies. To become certified, an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that

certification, a laboratory must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A laboratory must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Mandatory Guidelines dated April 13, 2004 (69 FR 19644), the following laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016, (Formerly: Bayshore Clinical Laboratory).

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264.

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150.

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400.

Baptist Medical Center-Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917.

Diagnostic Services Inc., dba DSI, 12700 Westlinks Dr., Fort Myers, FL 33913, 239–561–8200/800–735–5416.

Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229–671–2281.

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2661/800–898–0180, (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.).

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310.

Dynacare Kasper Medical Laboratories,* 10150–102 St., Suite 200, Edmonton, Alberta, Canada T5J 5E2, 780–451–3702/800–661–9876.

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 662–236–2609.

Express Analytical Labs, 3405 7th Ave., Suite 106, Marion, IA 52302, 319–377–0500.

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6225.

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823. (Formerly: Laboratory Specialists, Inc.).

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845. (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.).

Laboratory Corporation of America Holdings, 7207 N. Gessner Rd., Houston, TX 77040, 713–856–8288/800–800–2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986. (Formerly: Roche Biomedical Laboratories, Inc.).

Laboratory Corporation of America Holdings, 1904 Alexander Dr., Research Triangle Park, NC 27709, 919–572–6900/800–833–3984. (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).

Laboratory Corporation of America Holdings, 10788 Roselle St., San Diego, CA 92121, 800–882–7272. (Formerly: Poisonlab, Inc.).

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339. (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734.

MAXXAM Analytics Inc.,* 6740 Campobello Road, Mississauga, ON, Canada L5N 2L8, 905–817–5700. (Formerly: NOVAMANN (Ontario) Inc.).

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651–636–7466/800–832–3244.

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Dr., Minneapolis, MN 55417, 612–725–2088.

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.

Northwest Toxicology, a LabOne Company, 2282 South Presidents Drive, Suite C, West Valley City, UT 84120, 801–293–2300/800–322–3361. (Formerly: LabOne, Inc., d/b/a Northwest Toxicology; NWT Drug Testing, NorthWest Toxicology, Inc.; Northwest Drug Testing, a division of NWT Inc.).

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774. (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134.

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942. (Formerly: Centinela Hospital Airport Toxicology Laboratory).

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7897 x7.

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627.

Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590/800–729–6432. (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–824–6152. (Moved from the Dallas location on 03/31/01; Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750. (Formerly: Associated Pathologists Laboratories, Inc.).

Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403, 610–631–4600/877–642–2216. (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010. (Formerly: SmithKline Beecham Clinical Laboratories; International Toxicology Laboratories).

Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405,

818–989–2520/800–877–2520. (Formerly: SmithKline Beecham Clinical Laboratories).

Scientific Testing Laboratories, Inc., 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130.

Sciteck Clinical Laboratories, Inc., 317 Rutledge Rd., Fletcher, NC 28732, 828–650–0409.

S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227.

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176 x276.

Southwest Laboratories, 4645 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027.

Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–364–7400. (Formerly: St. Lawrence Hospital & Healthcare System).

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052.

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 573–882–1273.

Toxicology Testing Service, Inc., 5426 NW. 79th Ave., Miami, FL 33166, 305–593–2260.

U.S. Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 13, 2004 (69 FR 19644). After receiving DOT certification, the laboratory will be included in the monthly list of HHS certified laboratories and participate in the NLCP certification maintenance program.

Anna Marsh,

Executive Officer, SAMHSA.

[FR Doc. 05–8746 Filed 4–29–05; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2005–0033]

Notice of Meeting of Homeland Security Science and Technology Advisory Committee

AGENCY: Office of Studies and Analysis, Science and Technology Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: The Homeland Security Science and Technology Advisory Committee (HSSTAC) will meet in closed session.

DATES: May 18, 2005 and May 19, 2005.

ADDRESSES: If you wish to submit comments, you must do so by May 10, 2005. Comments must be identified by DHS–2005–0033 and may be submitted by one of the following methods:

- *EPA Federal Partner EDOCKET Web site:* http://www.epa.gov/feddocket. Follow instructions for submitting comments on the Web site.
- *E-mail:* HSSTAC@dhs.gov. Include docket number in the subject line of the message.
- *Fax:* 202–254–6177.
- *Mail:* Ms. Brenda Leckey, Office of Studies and Analysis, Science and Technology Directorate, Department of Homeland Security, Washington, DC 20528.

Docket: For access to the docket to read background documents or comments received, go to *http://www.epa.gov/feddocket.*

FOR FURTHER INFORMATION CONTACT: Brenda Leckey, Office of Studies and Analysis, Science and Technology Directorate, Department of Homeland Security, Washington, DC 20528, *HSSTAC@dhs.gov,* 202–254–5041.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. App. 1 *et seq.*). The HSSTAC will meet for purposes of: (1) Observing, reviewing, and evaluating operational sites where Science and Technology products are apparent and where the systems engineering challenges are visible; (2) receiving a report from the Under Secretary for Science and Technology on how the prior year HSSTAC recommendations are being/will be implemented; (3) receiving a briefing on the Maritime Domain Awareness (MDA) Architecture; (4) touring, observing and evaluating DHS operational sites and facilities; and (5) receiving subcommittee reports.

Specifically, the HSSTAC will receive briefings and tours that will include information and demonstrations detailing law enforcement methods and techniques utilized to prevent terrorists from entering our nation and carrying out catastrophic events on our air transportation system. They will observe demonstrations of two databases used to identify potential repeat criminal offenders, non-intrusive inspection equipment, evolving ''older technology'' (non-integrated, handheld, etc.), and canine operations. The HSSTAC will review the results of its subcommittees' activities undertaken since the last quarterly meeting in February 2005, and discuss any proposed subcommittee recommendations. They will receive a report from the Under Secretary detailing proposed actions and actions being taken by the Directorate as a result of the recommendations contained in the HSSTAC annual report to the Under Secretary and Congress. Finally, they will receive a classified briefing on MDA, a ''global'' program that attempts to assess any potential threat posed by vessels, cargo, and people involved in the Maritime Environment, and will tour the Joint Harbor Operations Center.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. 1 *et seq.*) and pursuant to the authority delegated to him by the Secretary in DHS Management Directive 2300, the Under Secretary for Science and Technology has determined that this HSSTAC meeting will address: Classified matters of national security concern; internal administrative and personnel matters specific to committee and agency operations; matters pertaining to law enforcement activity; and matters the disclosure of which would be likely to frustrate significantly proposed agency actions. Accordingly, consistent with the provisions of 5 U.S.C. 552b(c)(1), (c)(2), (c)(7), and (c)(9)(B), the meeting will be closed to the public.

Dated: April 26, 2005.

Charles E. McQueary,

Under Secretary for Science and Technology, Science and Technology Directorate.

[FR Doc. 05–8699 Filed 4–29–05; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–21093]

Notification of the Imposition of Conditions of Entry for Certain Vessels Arriving to the United States

AGENCY: Coast Guard, DHS.

ACTION: Notice of policy.

SUMMARY: The Coast Guard announces that effective anti-terrorism measures are not in place in ports of certain countries and will impose conditions of entry on vessels arriving from those countries.

DATES: The policy announced in this notice is effective on May 23, 2005.

ADDRESSES: The Docket Management Facility maintains the public docket for this notice. This notice will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket, including this notice, on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call Lieutenant Galia Kaplan, Coast Guard, telephone 202–366–2591.

SUPPLEMTARY INFORMATION:

Background and Purpose

Section 70110 of the Maritime Transportation Security Act provides that the Secretary of Homeland Security may impose conditions of entry into the United States from ports that are not maintaining effective anti-terrorism measures. The Coast Guard has been delegated the authority by the Secretary to carry out the provisions of this section. The Coast Guard has determined that ports in the following countries are not maintaining effective anti-terrorism measures: Democratic Republic of the Congo, Guinea-Bissau, Liberia, Mauritania, and Nauru. Accordingly, effective 23 May 2005, the Coast Guard will impose the following conditions of entry on vessels that visited the countries listed above during their last five port calls. Vessels must:

- Implement measures per the ship's security plan equivalent to Security Level 2;
- Ensure that each access point to the ship is guarded and that the guards have total visibility of the exterior (both landside and waterside) of the vessel while the vessel is in ports in the above countries. Guards may be provided by the ship's crew, however additional crewmembers should be placed on the ship if necessary to ensure that limits on maximum hours of work are not exceeded and/or minimum hours of rest are met, or provided by outside security forces approved by the ship's master and Company Security Officer;
- Attempt to execute a Declaration of Security;
- Log all security actions in the ship's log;
- Report actions taken to the cognizant U.S. Coast Guard Captain of the Port prior to arrival into U.S. waters; and
- Ensure that each access point to the ship is guarded by armed, private security guards and that they have total visibility of the exterior (both landside and waterside) of the vessel while in U.S. ports. The number and position of the guards has to be acceptable to the Coast Guard Captain of the Port.

Dated: April 26, 2005.

L.L. Hereth,

Director of Port Security.

[FR Doc. 05–8726 Filed 4–29–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket Nos. FR–4873–FA–02 and FR–4900–FA–09]

Housing Counseling Program; Announcement of Funding Awards for Fiscal Year 2004

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a Super Notice of Funding Availability (NOFA) competition for funding of HUD-approved counseling agencies to provide counseling services. This announcement contains the names and addresses of the agencies selected for funding and the award amounts. Additionally, this announcement provides notice of an award given for Housing Counseling Training through a competition announced in a May 12, 2004, NOFA.

FOR FURTHER INFORMATION CONTACT: Ruth Román, Director, Program Support Division, Room 9274, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–0317. Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service on 800–877–8339 or (202) 708–9300. (With the exception of the ''800'' number, these are not toll free numbers.)

SUPPLEMENTARY INFORMATION: The Housing Counseling Program is authorized by Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x). HUD enters into agreement with qualified public or private nonprofit organizations to provide housing counseling services to low- and moderate-income individuals and families nationwide. The services include providing information, advice and assistance to renters, first-time homebuyers, homeowners, and senior citizens in areas such as pre-purchase counseling, financial management, property maintenance and other forms of housing assistance to help individuals and families improve their housing conditions and meet the responsibilities of tenancy and homeownership.

HUD funding of approved housing counseling agencies is not guaranteed and when funds are awarded, a HUD grant does not cover all expenses incurred by an agency to deliver housing counseling services. Counseling agencies must actively seek additional funds from other sources such as city, county, state and federal agencies and from private entities to ensure that they have sufficient operating funds. The availability of Housing Counseling grants depends upon appropriations and the outcome of the award competition.

The 2004 grantees announced in Appendix A of this notice were selected for funding through a competition announced in a NOFA published in the **Federal Register** on May 14, 2004 (69 FR 27169) for the housing counseling program. Applications were scored and selected for funding on the basis of selection criteria contained in the NOFA. HUD awarded $35.928 million in housing counseling grants to 361 housing counseling organizations nationwide: 328 local agencies, 18 intermediaries, and 15 State housing finance agencies. Included in this figure

is: $2.5 million awarded to five intermediaries, five State housing finance agencies (SHFAs) and 37 local housing counseling agencies (LHCAs) for the purpose of combating predatory lending; $1.7 million awarded to five intermediaries, six SHFAs and 28 LHCAs for counseling in conjunction with HUD's Homeownership Voucher Program; and $258,809 awarded to one intermediary and two local organizations for provision of counseling services to families and individuals living in the Colonias, unincorporated communities in the southwest border region of the United States.

In addition to the $35.928 million, HUD awarded a $7.75 million competitive grant to Neighborhood Reinvestment Corporation (NRC) to develop and provide training and a broad array of other activities designed to improve and standardize the quality of counseling provided by housing counselors working for HUD-approved housing counseling agencies. Competition for this award was announced in a NOFA for Housing Counseling Training published in the **Federal Register** on May 12, 2004 (69 FR 26436).

The Catalog of Federal Domestic Assistance number for the Housing Counseling program is 14.169.

In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and award amounts as provided in Appendix A.

Dated: April 1, 2005.

Frank L. Davis,

General Deputy Assistant Secretary for Housing.

Appendix A—2004 HUD Housing Counseling Grants

INTERMEDIARY ORGANIZATIONS (18)

AARP FOUNDATION 601
E. Street, NW
Washington, DC 20049
Grant Type: Comprehensive
Amount Awarded: $913,915

ACORN HOUSING CORPORATION
846 N Broad St 2nd floor
Philadelphia, PA 19130–2234
Grant Type: Comprehensive
Amount Awarded: $1,812,471

CATHOLIC CHARITIES USA
1731 King St Ste 200
Alexandria, VA 22314–2720
Grant Type: Comprehensive
Amount Awarded: $1,968,601

CITIZENS' HOUSING AND PLANNING ASSOCIATION, INCORPORATED
18 Tremont Street,
Suite 401
Boston, MA 02108–
Grant Type: Comprehensive
Amount Awarded: $808,000

HOMEFREE—USA
318 Riggs Rd NE
Washington, DC 20011–2534
Grant Type: Comprehensive
Amount Awarded: $264,901

HOUSING OPPORTUNITIES, INCORPORATED
133 7th St
P.O. Box 9
Mc Keesport, PA 15134–
Grant Type: Comprehensive
Amount Awarded: $1,015,000

MISSION OF PEACE
Windmill Place, 877 East Fifth Ave.
Flint, MI 48503–
Grant Type: Comprehensive
Amount Awarded: $459,605

MONEY MANAGEMENT INTERNATIONAL INCORPORATED
9009 West Loop South
Suite 700
Houston, TX
77096–1719
Grant Type: Comprehensive
Amount Awarded: $588,000

NATIONAL ASSOCIATION OF REAL ESTATE BROKERS—INVESTMENT DIVISION, INCORPORATED
1301 85th Ave
Oakland, CA 94621–1605
Grant Type: Comprehensive
Amount Awarded: $1,105,800

NATIONAL COUNCIL OF LA RAZA
1111 19th Street NW Ste 1000
Washington, DC 20036–
Grant Type: Comprehensive
Amount Awarded: $913,915

NATIONAL CREDIT UNION FOUNDATION
601 Pennsylvania Avenue, NW
South Building, Suite 600
Washington, DC 20004–2601
Grant Type: Comprehensive
Amount Awarded: $654,309

NATIONAL FOUNDATION FOR CREDIT COUNSELING, INCORPORATED
801 Roeder Road
Suite 900
Silver Spring, MD 20910–3372
Grant Type: Comprehensive
Amount Awarded: $459,605

NATIONAL URBAN LEAGUE
120 Wall Street
New York, NY 10005–
Grant Type: Comprehensive
Amount Awarded: $1,369,194

NEIGHBORHOOD REINVESTMENT CORPORATION
1325 G St NW
Suite 800
Washington, DC 20005–3104
Grant Type: Comprehensive
Amount Awarded: $1,304,239

RURAL COMMUNITY ASSISTANCE CORPORATION
3120 Freeboard Drive
Suite 201
West Sacramento, CA 95691–
Grant Type: Comprehensive
Amount Awarded: $654,309

STRUCTURED EMPLOYMENT ECONOMIC DEVELOPMENT CORPORATION
915 Broadway 17th Floor
New York, NY 10010–
Grant Type: Comprehensive
Amount Awarded: $329,803

THE HOUSING PARTNERSHIP NETWORK
160 State Street, 5th Fl
Boston, MA 02109–
Grant Type: Comprehensive
Amount Awarded: $1,369,194

WEST TENNESSEE LEGAL SERVICES, INCORPORATED
210 West Main Street
P.O. Box 2066
Jackson, TN 38302–2066
Grant Type: Comprehensive
Amount Awarded: $784,112

STATE HOUSING FINANCE AGENCIES (15)

Atlanta (SHFA—COMP)

GEORGIA HOUSING AND FINANCE AUTHORITY
60 Executive Park South, NE
Atlanta, GA 30329–2231
Grant Type: Comprehensive
Amount Awarded: $184,000

INDIANA HOUSING FINANCE AUTHORITY
30 South Meridian Street, Ste 1000
Indianapolis, IN 46204
Grant Type: Comprehensive
Amount Awarded: $101,501

KENTUCKY HOUSING CORPORATION
1231 Louisville Road
Frankfort, KY 40601–
Grant Type: Comprehensive
Amount Awarded: $199,256

MISSISSIPPI HOME CORPORATION
735 Riverside Drive
P.O. Box 23369
Jackson, MS 39225–3369
Grant Type: Comprehensive
Amount Awarded: $62,875

Denver (SHFA—COMP)

MONTANA BOARD OF HOUSING
Box 200528
Helena, MT 59620
Grant Type: Comprehensive
Amount Awarded: $181,502

NORTH DAKOTA HOUSING FINANCE AGENCY
1500 East Capitol Avenue
P.O. Box 1535
Bismarck, ND 58502–1535
Grant Type: Comprehensive
Amount Awarded: $88,502

SOUTH DAKOTA HOUSING DEVELOPMENT AUTHORITY
221 South Central
P. O. Box 1237
Pierre, SD 57501–1237
Grant Type: Comprehensive
Amount Awarded: $245,869

Philadelphia (SHFA—COMP)

MAINE STATE HOUSING AUTHORITY
353 Water Street
Augusta, ME 04330–
Grant Type: Comprehensive
Amount Awarded: $100,000

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
735 E. Michigan Avenue

P.O. Box 30044
Lansing, MI 48909–
Grant Type: Comprehensive
Amount Awarded: $91,109

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY
637 South Clinton Avenue
Trenton, NJ 08650–
Grant Type: Comprehensive
Amount Awarded: $18,000

PENNSYLVANIA HOUSING FINANCE AGENCY
211 North Front Street
Harrisburg, PA 17101–1406
Grant Type: Comprehensive
Amount Awarded: $112,000

RHODE ISLAND HOUSING AND MORTGAGE FINANCE CORPORATION
44 Washington St
Providence, RI 02903–1721
Grant Type: Comprehensive
Amount Awarded: $182,000

VIRGINIA HOUSING DEVELOPMENT AUTHORITY
601 S. Belvedere Street
Richmond, VA 23220–
Grant Type: Comprehensive
Amount Awarded: $64,536

Santa Ana (SHFA—COMP)

IDAHO HOUSING AND FINANCE ASSOCIATION
565 West Myrtle
P.O. Box 7899
Boise, ID 83702–
Grant Type: Comprehensive
Amount Awarded: $171,450

WASHINGTON STATE HOUSING FINANCE COMMISSION
1000 2nd Avenue
Suite 2700
Seattle, WA 98104–1046
Grant Type: Comprehensive
Amount Awarded: $300,000

LOCAL ORGANIZATIONS (328)

Atlanta (LHCA—COMP)

ACCESS LIVING OF METROPOLITAN CHICAGO
614 Roosevelt Road
Chicago, IL 60607–
Grant Type: Comprehensive
Amount Awarded: $24,107

AFFORDABLE HOUSING COALITION OF ASHVILLE AND BUNCOMBE COUNTY, INCORPORATED
34 Wall Street
Suite 607
Asheville, NC 28801–
Grant Type: Comprehensive
Amount Awarded: $28,853

AFFORDABLE HOUSING CORPORATION
601 S. Adams Street
Marion, IN 46953
Grant Type: Comprehensive
Amount Awarded: $36,618

AFFORDABLE HOUSING ENTERPRISES, INCORPORATED
333 South 9th Street
Griffin, GA 30224–
Grant Type: Comprehensive
Amount Awarded: $21,830

ALABAMA COUNCIL ON HUMAN RELATIONS, INCORPORATED
319 W Glenn Ave
P.O. Box 409
Auburn, AL 36831–0409
Grant Type: Comprehensive
Amount Awarded: $17,277

ANDERSON HOUSING AUTHORITY
528 West 11th St
Anderson, IN 46016–1228
Grant Type: Comprehensive
Amount Awarded: $28,853

AREA COMMITTEE TO IMPROVE OPPORTUNITIES NOW, INCORPORATED
594 Oconee Street
Athens, GA 30603
Grant Type: Comprehensive
Amount Awarded: $15,000

CAMPBELLSVILLE HOUSING AND REDEVELOPMENT AUTHORITY
400 Ingram Ave
P.O. Box 597
Campbellsville, KY 42718–1627
Grant Type: Comprehensive
Amount Awarded: $15,000

CCCS FORSYTH COUNTY
8064 North Point Boulevard, Suite 204
Winston Salem, NC 27106–
Grant Type: Comprehensive
Amount Awarded: $56,641

CCCS OF CENTRAL FL AND THE FL GULF COAST, INC.—MAIN OFFICE
3670 Maguire Boulevard, Suite 103
Orlando, FL 32803
Grant Type: Comprehensive
Amount Awarded: $94,998

CCCS OF NORTH WEST
3637 Grant St
Gary, IN 46408–1423
Grant Type: Comprehensive
Amount Awarded: $86,000

CCCS OF WEST FL DBA ALLVISTA SOLUTIONS
14 Palafox Place
P.O. Box 950
Pensacola, FL 32502
Grant Type: Comprehensive
Amount Awarded: $25,000

CCCS OF WESTERN NORTH CAROLINA
50 S French Broad Ave Ste 227
Asheville, NC 28801–3217
Grant Type: Comprehensive
Amount Awarded: $53,865

CEIBA HOUSING AND ECONOMIC DEVELOPMENT CORPORATION
Ave Lauro Pinero 252
P.O. Box 203
Ceiba, PR 00735–0203
Grant Type: Comprehensive
Amount Awarded: $24,107

CENTER FOR PAN ASIAN COMMUNITY SERVICES, INCORPORATED
3760 Park Avenue
Doraville, GA 30340–
Grant Type: Comprehensive
Amount Awarded: $15,000

CENTRAL FLORIDA COMMUNITY DEVELOPMENT CORPORATION
847 Orange Avenue
P.O. Box 15065
Daytona Beach, FL 32114–
Grant Type: Comprehensive
Amount Awarded: $26,544

CHOANOKE AREA DEVELOPMENT ASSOCIATION OF NORTH CAROLINA
120 Sessoms Drive
Rich Square, NC 27869
Grant Type: Comprehensive
Amount Awarded: $15,000

CITIZENS FOR AFFORDABLE HOUSING
1719 West End Ave Ste 322W
Nashville, TN 37203–5120
Grant Type: Comprehensive
Amount Awarded: $15,000

CITY OF ALBANY PLANNING & COMMUNITY DEVELOPMENT
230 South Jackson St Ste 315
Albany, GA 31701–
Grant Type: Comprehensive
Amount Awarded: $45,537

CITY OF BLOOMINGTON, HSG AND NEIGHBORHOOD DEVELOPMENT
401 N Morton St
P.O. Box 100 zip # 47402
Bloomington, IN 47404–3729
Grant Type: Comprehensive
Amount Awarded: $31,162

COBB HOUSING, INCORPORATED
268 Lawrence ST, Suite 100
Marietta, GA 30060
Grant Type: Comprehensive
Amount Awarded: $38,089

COMMUNITY ACTION AGENCY OF NORTHWEST ALABAMA, INCORPORATED
745 Thompson St
Florence, AL 35630–
Grant Type: Comprehensive
Amount Awarded: $20,000

COMMUNITY ACTION PARTNERSHIP OF NORTH ALABAMA, INCORPORATED
1909 Central Parkway SW
Decatur, AL 35601–
Grant Type: Comprehensive
Amount Awarded: $33,471

COMMUNITY ACTION PARTNERSHIP, HUNTSVILLE/MADISON & LIMESTONE COUNTIES, INCORPORATED
3516 Stringfield Rd
P.O. Box 3975
Huntsville, AL 35810–1758
Grant Type: Comprehensive
Amount Awarded: $28,853

COMMUNITY AND ECONOMIC DEVELOPMENT ASSOCIATION
208 S La Salle St Ste 1900
Chicago, IL 60604–1104
Grant Type: Comprehensive
Amount Awarded: $31,162

COMMUNITY DEVELOPMENT BLOCK GRANT OPERATIONS
301 River Park Dr. 3rd Floor
East St Louis, IL 62201–3022
Grant Type: Comprehensive
Amount Awarded: $31,162

COMMUNITY ENTERPRISE INVESTMENTS, INCORPORATED
302 North Barcelona St
Pensacola, FL 32502
Grant Type: Comprehensive
Amount Awarded: $23,000

COMMUNITY HOUSING INITIATIVE
3033 College Wood Drive
P.O. Box 410522, FL 32941–0522
Melbourne, FL 32934
Grant Type: Comprehensive
Amount Awarded: $20,042

COMMUNITY INVESTMENT CORPORATION OF DECATUR
2121 S. Imboden Court

Decatur, IL 62521–
Grant Type: Comprehensive
Amount Awarded: $17,277

CONSUMER CREDIT COUNSELING SERVICE OF BREVARD
220 Coral Sands Dr
Rockledge, FL 32955–2702
Grant Type: Comprehensive
Amount Awarded: $46,347

COOPERATIVE RESOURCE CENTER
191 Edgewood Avenue, S.E.
Atlanta, GA 30303–
Grant Type: Comprehensive
Amount Awarded: $21,830

CUMBERLAND COMMUNITY ACTION PROGRAM, INCORPORATED
316 Green Street
P.O. Box 2009
Fayetteville, NC 28302
Grant Type: Comprehensive
Amount Awarded: $24,107

DEERFIELD BEACH HOUSING AUTHORITY
533 S. Dixie Hwy
Deerfield Beach, FL 33441
Grant Type: Comprehensive
Amount Awarded: $15,000

DEKALB/METRO HOUSING COUNSELING CENTER
4151 Memorial Drive, Suite 207B
Decatur, GA 30032
Grant Type: Comprehensive
Amount Awarded: $21,830

DU PAGE HOMEOWNERSHIP CENTER
1333 N Main St
Wheaton, IL 60187–3579
Grant Type: Comprehensive
Amount Awarded: $38,089

DURHAM REGIONAL COMMUNITY DEVELOPMENT CENTER
315 East Chapel Hill Street
Suite 301
Durham, NC 27701–
Grant Type: Comprehensive
Amount Awarded: $15,000

EAST ATHENS DEVELOPMENT CORPORATION
410 McKinley drive
Suite 101
Athens, GA 30601–
Grant Type: Comprehensive
Amount Awarded: $24,107

ECONOMIC OPPORTUNITY FOR SAVANNAH CHATHAM COUNTY AREA, INCORPORATED
618 W Anderson St
P.O. Box 1353
Savannah, GA 31415
Grant Type: Comprehensive
Amount Awarded: $28,853

ELIZABETH CITY STATE UNIVERSITY
1704 Weeksville Rd.
Elizabeth City, NC 27909–
Grant Type: Comprehensive
Amount Awarded: $38,089

FAMILY SERVICE CENTER OF SOUTH CAROLINA, INCORPORATED
1800 Main St
P.O. Box 7876
Columbia, SC 29201–2433
Grant Type: Comprehensive
Amount Awarded: $26,544

FAMILY SERVICES INCORPORATED
4925 Lacross St. Ste. 215
North Charleston, SC 29406–
Grant Type: Comprehensive
Amount Awarded: $64,200

GAINESVILLE–HALL COUNTY NEIGHBORHOOD REVITALIZATION
2380 Murphy Blvd
P.O. Box 642
Gainesville, GA 30503–
Grant Type: Comprehensive
Amount Awarded: $31,162

GEORGIA MUTUAL ASSISTANCE ASSOCIATION CONSORTIUM
4416 East Ponce de Leon Avenue
P. O. Box 250
Clarkston, GA 30021
Grant Type: Comprehensive
Amount Awarded: $19,553

GOODWILL INDUSTRIES MANASOTA, INCORPORATED
8490 Lockwood Ridge Road
Sarasota, FL 34243
Grant Type: Comprehensive
Amount Awarded: $38,089

GREATER OCALA COMMUNITY DEVELOPMENT CORPORATION
1749 W. Silver Springs Boulevard
P. O. Box 5582 (zip code 34478)
Ocala, FL 34475
Grant Type: Comprehensive
Amount Awarded: $24,107

GREENSBORO HOUSING COALITION
122 N. Elm Street, Suite 608
Greensboro, NC 27401–
Grant Type: Comprehensive
Amount Awarded: $17,277

GREENVILLE COUNTY HUMAN RELATIONS COMMISSION
301 University Ridge, Suite 1600
Greenville, SC 29601–3660
Grant Type: Comprehensive
Amount Awarded: $104,409

GWINNETT HOUSING RESOURCE PARTNERSHIP, INCORPORATED
2825 Breckinridge Blvd. Suite 160
Duluth, GA 30096–
Grant Type: Comprehensive
Amount Awarded: $48,313

HAVEN ECONOMIC DEVELOPMENT INCORPORATED
8612 State Road 84
Davie, FL 33324–
Grant Type: Comprehensive
Amount Awarded: $45,000

HIGHLAND FAMILY RESOURCE CENTER, INCORPORATED
1305 N. Weldon Street
P. O. Box 806
Gastonia, NC 28053–
Grant Type: Comprehensive
Amount Awarded: $17,277

HOMES IN PARTNERSHIP, INCORPORATED
235 E 5th St
PO Box 761
Apopka, FL 32703–5315
Grant Type: Comprehensive
Amount Awarded: $50,000

HOOSIER UPLANDS ECONOMIC DEVELOPMENT CORPORATION
521 W Main St
PO Box 9
Mitchell, IN 47446–1410
Grant Type: Comprehensive
Amount Awarded: $19,553

HOPE OF EVANSVILLE, INCORPORATED
608 Cherry St
Evansville, IN 47713–
Grant Type: Comprehensive
Amount Awarded: $31,162

HOUSING AND ECONOMIC LEADERSHIP PARTNERS, INCORPORATED
485 Huntington Road, Suite 200
Athens, GA 30606–
Grant Type: Comprehensive
Amount Awarded: $19,553

HOUSING AND NEIGHBORHOOD DEVELOPMENT (H.A.N.D.S.)
6900 South Orange Blossom Trail
Suite 300
Orlando, FL 32809–
Grant Type: Comprehensive
Amount Awarded: $28,853

HOUSING ASSISTANCE AND DEVELOPMENT SERVICES
1135 Adams Street
P.O. Box 9637
Bowling Green, KY 42101–0430
Grant Type: Comprehensive
Amount Awarded: $15,000

HOUSING AUTHORITY OF CITY OF ROME
800 Avenue B
Rome, GA 30162–
Grant Type: Comprehensive
Amount Awarded: $15,000

HOUSING AUTHORITY OF THE CITY OF FORT WAYNE, INDIANA
2013 S. Anthony Blvd.
Fort Wayne, IN 46803
Grant Type: Comprehensive
Amount Awarded: $33,471

HOUSING AUTHORITY OF THE CITY OF HAMMOND
1402 173rd Street
Hammond, IN 46324–2831
Grant Type: Comprehensive
Amount Awarded: $19,553

HOUSING AUTHORITY OF THE CITY OF HIGH POINT
500E Russell Avenue
PO Box 1779
High Point, NC 27260–
Grant Type: Comprehensive
Amount Awarded: $17,277

HOUSING AUTHORITY OF THE CITY OF MONTGOMERY
1020 Bell St
Montgomery, AL 36104–3056
Grant Type: Comprehensive
Amount Awarded: $15,000

HOUSING AUTHORITY OF THE COUNTY OF LAKE
33928 North Route 45
Grayslake, IL 60030
Grant Type: Comprehensive
Amount Awarded: $24,107

HOUSING AUTHORITY, CITY OF ELKHART
1396 Benham Ave
Elkhart, IN 46516–3341
Grant Type: Comprehensive
Amount Awarded: $15,598

HOUSING CHOICE PARTNERS OF ILLNOIS, INCORPORATED
28 E.Jackson Blvd, #1109
Chicago, IL 60604–
Grant Type: Comprehensive
Amount Awarded: $19,553

HOUSING DEVELOPMENT CORPORATION OF ST. JOSEPH COUNTY
227 W. Jefferson Blvd., 12th Floor

South Bend, IN 46601–1830
Grant Type: Comprehensive
Amount Awarded: $15,000

HOUSING EDUCATION AND ECONOMIC DEVELOPMENT
3405 Medgar Evers Blvd
PO Box 11853
Jackson, MS 39213–6360
Grant Type: Comprehensive
Amount Awarded: $24,107

HOUSING OPPORTUNITIES, INCORPORATED
2801 Evans Avenue
Valparaiso, IN 46383–
Grant Type: Comprehensive
Amount Awarded: $15,000

INDIANAPOLIS URBAN LEAGUE
777 Indiana Ave.
Indianapolis, IN 46202–3135
Grant Type: Comprehensive
Amount Awarded: $20,000

J.C. VISION AND ASSOCIATES
135 G East Martin Luther King Dr.
Hinesville, GA 31310
Grant Type: Comprehensive
Amount Awarded: $19,553

JACKSONVILLE AREA LEGAL AID, INCORPORATED
126 W. Adams Street
Jacksonville, FL 32202–3849
Grant Type: Comprehensive
Amount Awarded: $35,780

JEFFERSON COUNTY COMMITTEE FOR ECONOMIC OPPORTUNITY
300 Eighth Avenue, West
Birmingham, AL 35204–3039
Grant Type: Comprehensive
Amount Awarded: $15,000

JEFFERSON COUNTY HOUSING AUTHORITY
3700 Industrial Parkway
Birmingham, AL 35217–
Grant Type: Comprehensive
Amount Awarded: $15,000

JOHNSTON–LEE–HARNETT COMMUNITY ACTION, INCORPORATED
1102 Massey Street
PO Drawer 711
Smithfield, NC 27577–0711
Grant Type: Comprehensive
Amount Awarded: $15,000

LAKE COUNTY COMMUNITY ECONOMIC DEPARTMENT
293 N Main St
Crown Point, IN 46307–1885
Grant Type: Comprehensive
Amount Awarded: $15,000

LATIN AMERICAN ASSOCIATION
2750 Buford Highway
Atlanta, GA 30324–
Grant Type: Comprehensive
Amount Awarded: $35,000

LATIN UNITED COMMUNITY HOUSING ASSOCIATION
3541 West North Avenue
Chicago, IL 60647–
Grant Type: Comprehensive
Amount Awarded: $35,780

LEGAL ASSISTANCE FOUNDATION OF METROPOLITAN CHICAGO
111 West Jackson Blvd. Suite 300
Chicago, IL 60604–
Grant Type: Comprehensive
Amount Awarded: $24,107

LINCOLN HILLS DEVELOPMENT CORPORATION
302 Main St
P.O. Box 336
Tell City, IN 47586–0336
Grant Type: Comprehensive
Amount Awarded: $15,000

MANATEE COALITION FOR AFFORDABLE HOUSING, INCORPORATED
319 6TH Avenue West
Bradenton, FL 34205–
Grant Type: Comprehensive
Amount Awarded: $26,544

MANATEE OPPORTUNITY COUNCIL, INCORPORATED
369 6th Avenue West
Bradenton, FL 34205–8820
Grant Type: Comprehensive
Amount Awarded: $33,471

MEMPHIS AREA LEGAL SERVICES
109 N Main 2nd Fl
Memphis, TN 38103–
Grant Type: Comprehensive
Amount Awarded: $24,107

MID-FLORIDA HOUSING PARTNERSHIP, INCORPORATED
330 North Street
P.O. Box 1345
Daytona Beach, FL 32114–
Grant Type: Comprehensive
Amount Awarded: $50,000

MIDDLE GEORGIA COMMUNITY ACTION AGENCY, INCORPORATED
121 Prince Street
P.O. Box 2286
Warner Robins, GA 31093–1734
Grant Type: Comprehensive
Amount Awarded: $31,162

MOBILE HOUSING BOARD
151 S. Claiborne Street
Mobile, AL 36602
Grant Type: Comprehensive
Amount Awarded: $35,780

MOMENTIVE CONSUMER CREDIT COUNSELING SERVICE
615 N. Alabama Street
Suite 134
Indianapolis, IN 46204–1477
Grant Type: Comprehensive
Amount Awarded: $56,641

MONROE-UNION COMMUNITY DEVELOPMENT CORPORATION
349 East Franklin Street
P.O. Box 887
Monroe, NC 28112–
Grant Type: Comprehensive
Amount Awarded: $38,089

NEIGHBORHOOD HOUSING SERVICES OF CHICAGO, INCORPORATED
1279 N. Milwaukee Street
Chicago, IL 60622
Grant Type: Comprehensive
Amount Awarded: $45,537

NORTHEASTERN COMMUNITY DEVELOPMENT CORPORATION
154 Highway 158 East
P.O. Box 367
Camden, NC 27921–0367
Grant Type: Comprehensive
Amount Awarded: $30,000

NORTHWESTERN REGIONAL HOUSING AUTHORITY
869 Highway 105 Ext Ste 10
P.O. Box 2510
Boone, NC 28607–2510
Grant Type: Comprehensive
Amount Awarded: $24,107

OCALA HOUSING AUTHORITY
1629 Northwest 4th Street
Ocala, FL 34475
Grant Type: Comprehensive
Amount Awarded: $35,000

OPA-LOCKA COMMUNITY DEVELOPMENT CORPORATION
490 Opa-Locka Boulevard
Suite 20
Opa-Locka, FL 33054
Grant Type: Comprehensive
Amount Awarded: $21,830

ORGANIZED COMMUNITY ACTION PROGRAM
507 North Three Notch Street
P.O. Box 908
Troy, AL 36081–0908
Grant Type: Comprehensive
Amount Awarded: $21,830

PARTNERSHIP FOR FAMILIES, CHILDREN AND ADULTS/CCCS OF CHATTANOOGA
5704 Marlin Road
Chattanooga, TN 37411
Grant Type: Comprehensive
Amount Awarded: $31,162

PROSPERITY UNLIMITED, INCORPORATED
1660 Garnet Street
Kannapolis, NC 28083
Grant Type: Comprehensive
Amount Awarded: $17,277

REACH, INCORPORATED
733 Red Mile RD
Lexington, KY 40504–
Grant Type: Comprehensive
Amount Awarded: $17,277

ROGERS PARK COMMUNITY DEVELOPMENT CORPORATION
1530 West Morse Avenue
Chicago, IL 60626–
Grant Type: Comprehensive
Amount Awarded: $21,830

SACRED HEART SOUTHERN MISSIONS HOUSING CORPORATION
9260 McLemore Drive
P.O. Box 365
Walls, MS 38680–0365
Grant Type: Comprehensive
Amount Awarded: $17,277

SANDHILLS COMMUNITY ACTION PROGRAM, INCORPORATED
103 Saunders St
P.O. Box 937
Carthage, NC 28327–0937
Grant Type: Comprehensive
Amount Awarded: $45,537

SOUTH SUBURBAN HOUSING CENTER
18220 Harwood Avenue, Suite 1
Homewood, IL 60430–
Grant Type: Comprehensive
Amount Awarded: $24,107

SPANISH COALITION FOR HOUSING
4035 W North Ave
Chicago, IL 60639–
Grant Type: Comprehensive
Amount Awarded: $17,277

SPRINGFIELD HOUSING AUTHORITY
200 North Eleventh Street
Springfield, IL 62703–
Grant Type: Comprehensive
Amount Awarded: $17,277

TALLAHASSEE LENDERS CONSORTIUM, INCORPORATED
1114 East Tennessee St
Tallahassee, FL 32308–
Grant Type: Comprehensive
Amount Awarded: $19,553

TALLAHASSEE URBAN LEAGUE
923 Old Bainbridge Road
Tallahassee, FL 32303–6042
Grant Type: Comprehensive
Amount Awarded: $48,313

TENANT SERVICES AND HOUSING COUNSELING, INCORPORATED
258 Clark Street
Lexington, KY 40507–
Grant Type: Comprehensive
Amount Awarded: $15,000

THE CENTER FOR AFFORDABLE HOUSING
2524 S. Park Drive
Sanford, FL 32773
Grant Type: Comprehensive
Amount Awarded: $35,780

TWIN RIVERS OPPORTUNITIES, INCORPORATED
318 Craven St.
P.O. Box 1482
New Bern, NC 28563–
Grant Type: Comprehensive
Amount Awarded: $24,107

UNIVERSITY OF SOUTHERN MISSISSIPPI'S INSTITUTE FOR DISABILITY STUDIES
118 College Drive, #5163
Hattiesburg, MS 39406–0001
Grant Type: Comprehensive
Amount Awarded: $17,277

URBAN LEAGUE OF GREATER COLUMBUS
802 1st Ave.
Columbus, GA 31901–2702
Grant Type: Comprehensive
Amount Awarded: $19,553

URBAN LEAGUE OF LOUISVILLE, INCORPORATED
1535 West Broadway
Louisville, KY 40203
Grant Type: Comprehensive
Amount Awarded: $26,544

VOLLINTINE EVERGREEN COMMUNITY ASSOCIATION
1680 Jackson Ave
Memphis, TN 38107–5044
Grant Type: Comprehensive
Amount Awarded: $28,853

WATEREE COMMUNITY ACTIONS, INCORPORATED
13 S Main St.
P.O. Box 1838
Sumter, SC 29150–5244
Grant Type: Comprehensive
Amount Awarded: $17,277

WEST PERRINE COMMUNITY DEVELOPMENT CORPORATION
17755 Homestead Ave.
Suite 102
Miami, FL 33157–5340
Grant Type: Comprehensive
Amount Awarded: $40,000

WESTERN PIEDMONT COUNCIL OF GOVERNMENTS
736 4th Street South-West
P.O. Box 9026
Hickory, NC 28602–
Grant Type: Comprehensive
Amount Awarded: $19,553

WILL COUNTY CENTER FOR COMMUNITY CONCERNS
304 N. Scott Street
Joliet, IL 60432–
Grant Type: Comprehensive
Amount Awarded: $15,000

WILMINGTON HOUSING FINACE AND DEVELOPMENT, INCORPORATED
310 North Front Street
P.O. Box 547
Wilimington, NC 28402–
Grant Type: Comprehensive
Amount Awarded: $19,553

WOODBINE COMMUNITY ORGANIZATION
222 Oriel Ave.
Nashville, TN 37210–
Grant Type: Comprehensive
Amount Awarded: $65,300

Denver (LHCA—COMP)

ADAMS COUNTY HOUSING AUTHORITY
7190 Colorado Blvd 6th Fl
Commerce City, CO 80022–1812
Grant Type: Comprehensive
Amount Awarded: $150,000

ANOKA COUNTY COMMUNITY ACTION PROGRAM, INCORPORATED
1201 89th Ave NE Ste 345
Blaine, MN 55434–3373
Grant Type: Comprehensive
Amount Awarded: $56,062

AVENIDA GUADALUPE ASSOCIATION
1327 Guadalupe St
San Antonio, TX 78207–
Grant Type: Comprehensive
Amount Awarded: $15,000

AVENUE COMMUNITY DEVELOPMENT CORPORATION
2505 Washington Ave, Suite 400
Houston, TX 77007–
Grant Type: Comprehensive
Amount Awarded: $15,000

BOULDER COUNTY HOUSING AUTHORITY
P.O. Box 471
Boulder, CO 80306–0471
Grant Type: Comprehensive
Amount Awarded: $68,000

BROTHERS REDEVELOPMENT, INCORPORATED
2250 Eaton St
Garden Level
Denver, CO 80214–1210
Grant Type: Comprehensive
Amount Awarded: $50,000

CARVER COUNTY HOUSING AND REDEVELOPMENT AUTHORITY
705 Walnut Street
Chaska, MN 55318–
Grant Type: Comprehensive
Amount Awarded: $103,425

CDC OF BROWNSVILLE
901 East Levee Street
Brownsville, TX 78520–5804
Grant Type: Comprehensive
Amount Awarded: $92,704

CEDAR CITY HOUSING AUTHORITY
364 South 100 East
Cedar City, UT 84720–
Grant Type: Comprehensive
Amount Awarded: $12,524

CITY OF AURORA COMMUNITY DEVELOPMENT DIVISION
9898 E. Colfax Ave.
Aurora, CO 80010–
Grant Type: Comprehensive
Amount Awarded: $50,000

CITY OF FORT WORTH HOUSING DEPARTMENT
1000 Throckmorton St.
Fort Worth, TX 76102–
Grant Type: Comprehensive
Amount Awarded: $92,704

CITY OF SAN ANTONIO/COMMUNITY ACTION DIVISION
700 So. Zarzamora, Suite 207
P.O. Box 839966
San Antonio, TX 78205–
Grant Type: Comprehensive
Amount Awarded: $135,572

COMMUNITY ACTION AGENCY OF OKLAHOMA CITY AND OKLAHOMA/CANADIAN COUNTIES, INC.
1900 NW 10th St.
Oklahoma City, OK 73106–2428
Grant Type: Comprehensive
Amount Awarded: $24,679

COMMUNITY ACTION FOR SUBURBAN HENNEPIN, INCORPORATED
33 10th Ave. South
Suite 150
Hopkins, MN 55343–1303
Grant Type: Comprehensive
Amount Awarded: $150,000

COMMUNITY ACTION PROJECT OF TULSA COUNTY, INCORPORATED
717 S. Houston, Suite 200
Tulsa, OK 74127
Grant Type: Comprehensive
Amount Awarded: $100,000

COMMUNITY ACTION SERVICES
815 South Freedom Blv., Suite 100
Provo, UT 84601–
Grant Type: Comprehensive
Amount Awarded: $50,000

COMMUNITY ACTION, INCORPORATED OF ROCK AND WALWORTH COUNTIES
2300 Kellogg Ave
Janesville, WI 53546–5921
Grant Type: Comprehensive
Amount Awarded: $20,000

COMMUNITY DEVELOPMENT SUPPORT ASSOCIATION
2615 E Randolph
Enid, OK 73701–
Grant Type: Comprehensive
Amount Awarded: $30,000

COMMUNITY SERVICES LEAGUE
300 W Maple Ave
Independence, MO 64050–2818
Grant Type: Comprehensive
Amount Awarded: $78,060

CONSUMER CREDIT COUNSELING SERVICE OF CENTRAL OKLAHOMA, INCORPORATED
MidFirst Bank
228 Chickasha Avenue
Chickasha, OK 73018
Grant Type: Comprehensive
Amount Awarded: $67,000

CROWLEY'S RIDGE DEVELOPMENT COUNCIL, INCORPORATED
P.O. Box 1497
Jonesboro, AR 72403–1497
Grant Type: Comprehensive
Amount Awarded: $37,248

FAMILY HOUSING ADVISORY SERVICES, INCORPORATED
2416 Lake Street

Omaha, NE 68111–
Grant Type: Comprehensive
Amount Awarded: $150,000

FAMILY MANAGEMENT CREDIT COUNSELORS, INCORPORATED
1409 W 4th St
Waterloo, IA 50702–2907
Grant Type: Comprehensive
Amount Awarded: $35,000

FINANCIAL SOLUTIONS OF WYOMING
441 S. Center St., Suite 100
Casper, WY 82601–
Grant Type: Comprehensive
Amount Awarded: $15,000

GREATER KANSAS CITY HOUSING INFORMATION CENTER
6285 Paseo Blvd
Kansas City, MO 64110
Grant Type: Comprehensive
Amount Awarded: $63,598

GULF COAST COMMUNITY SERVICES ASSOCIATION
5000 Gulf Freeway, Bldg #1
Houston, TX 77023
Grant Type: Comprehensive
Amount Awarded: $53,852

HOME OPPORTUNITIES MADE EASY, INCORPORATED (HOME, INC.)
1111 Ninth Street, Suite 210
Des Moines, IA 50314
Grant Type: Comprehensive
Amount Awarded: $31,568

HOME-NEW MEXICO, INCORPORATED
3900 Osuna NE
Albuquerque, NM 87109–
Grant Type: Comprehensive
Amount Awarded: $16,050

HOUSING AND CREDIT COUNSELING, INCORPORATED
1195 SW Buchanan St, Ste 101
Topeka, KS 66604–1183
Grant Type: Comprehensive
Amount Awarded: $150,000

HOUSING AUTHORITY OF THE CITY OF NORMAN
700 North Berry Road
Norman, OK 73069–
Grant Type: Comprehensive
Amount Awarded: $55,000

HOUSING OPTIONS PROVIDED FOR THE ELDERLY
4265 Shaw Blvd
St. Louis, MO 63110–3526
Grant Type: Comprehensive
Amount Awarded: $29,000

HOUSING PARTNERS OF TULSA, INCORPORATED
415 E. Independence
P.O. Box 6369
Tulsa, OK 74106–
Grant Type: Comprehensive
Amount Awarded: $58,488

HOUSING SOLUTIONS FOR THE SOUTHWEST
295 Girard St
Durango, CO 81303–
Grant Type: Comprehensive
Amount Awarded: $40,303

IDABEL HOUSING AUTHORITY
901 Lyndon Rd.
P. O. Box 838
Idabel, OK 74745–0838
Grant Type: Comprehensive
Amount Awarded: $42,310

INTERFAITH OF NATRONA COUNTY, INCORPORATED
1514 East 12th Street, #303
Casper, WY 82601–
Grant Type: Comprehensive
Amount Awarded: $30,000

IOWA CITIZENS FOR COMMUNITY IMPROVEMENT
2005 Forest Avenue
Des Moines, IA 50311
Grant Type: Comprehensive
Amount Awarded: $35,000

JEFFERSON COMMUNITY ACTION PROGRAM
1221 Elmwood Park Blvd Ste 402
Jefferson, LA 70123–
Grant Type: Comprehensive
Amount Awarded: $26,000

JUSTINE PETERSEN HOUSING AND REINVESTMENT CORPORATION
5031 Northrup Ave.
St. Louis, MO 63110–
Grant Type: Comprehensive
Amount Awarded: $15,000

KI BOIS COMMUNITY ACTION FOUNDATION, INCORPORATED
301 E Main
P.O. Box 727
Stigler, OK 74462–
Grant Type: Comprehensive
Amount Awarded: $45,539

LAFAYETTE CONSOLIDATED GOVERNMENT NEIGHBORHOOD COUNSELING SERVICES
111 Shirley Picard Dr.
Lafayette, LA 70501
Grant Type: Comprehensive
Amount Awarded: $20,000

LEGAL SERVICES OF EASTERN MISSOURI, INCORPORATED
4232 Forest Park Ave
St. Louis, MO 63108–2811
Grant Type: Comprehensive
Amount Awarded: $150,000

LINCOLN ACTION PROGRAM, INCORPORATED
210 O Street
Lincoln, NE 68508–
Grant Type: Comprehensive
Amount Awarded: $80,000

NEIGHBOR TO NEIGHBOR
424 Pine Street
Suite 203
Fort Collins, CO 80524–
Grant Type: Comprehensive
Amount Awarded: $45,000

NORTHERN ARAPAHO TRIBAL HOUSING
P.O. Box 8236
501 Ethete Rd
Ethete, WY 82520–
Grant Type: Comprehensive
Amount Awarded: $34,398

OGLALA SIOUX TRIBE PARTNERSHIP FOR HOUSING, INCORPORATED
Old Ambulance Building
P.O. Box 3001
Pine Ridge, SD 57770–
Grant Type: Comprehensive
Amount Awarded: $53,852

PROJECT BRAVO, INCORPORATED
4838 Montana Ave
El Paso, TX 79903–
Grant Type: Comprehensive
Amount Awarded: $73,641

SAINT MARTIN, IBERIA, LAFAYETTE COMMUNITY ACTION
501 Saint John St
P.O. Box 3343
Lafayette, LA 70501–5709
Grant Type: Comprehensive
Amount Awarded: $15,000

SAINT PAUL URBAN LEAGUE
401 Selby Ave
St. Paul, MN 55102–1724
Grant Type: Comprehensive
Amount Awarded: $31,750

SALT LAKE COMMUNITY ACTION PROGRAM
764 S 200 W
Salt Lake City, UT 84101–2710
Grant Type: Comprehensive
Amount Awarded: $25,000

SOUTH ARKANSAS COMMUNITY DEVELOPMENT
406 Clay Street
Arkadelphia, AR 71923–
Grant Type: Comprehensive
Amount Awarded: $35,000

SOUTHEASTERN NORTH DAKOTA COMMUNITY ACTION
3233 S University Dr
Fargo, ND 58104–6221
Grant Type: Comprehensive
Amount Awarded: $14,000

SOUTHERN MINNESOTA REGIONAL LEGAL SERVICES, INCORPORATED
166 E 4th St., Suite 200
St. Paul, MN 55101
Grant Type: Comprehensive
Amount Awarded: $90,000

STILLWATER HOUSING AUTHORITY
807 S Lowry
Stillwater, OK 74074–
Grant Type: Comprehensive
Amount Awarded: $39,000

TENANT RESOURCE CENTER
1202 Williamson St. Suite A
Madison, WI 53703–
Grant Type: Comprehensive
Amount Awarded: $62,310

TEXAS RURAL LEGAL AID, INCORPORATED
300 South Texas Blvd.
Weslaco, TX 78596–
Grant Type: Comprehensive
Amount Awarded: $53,852

THE CHICKASAW NATION DIVISION OF HOUSING
901 N. Country Club
P.O. Box 788
Ada, OK 74820–0788
Grant Type: Comprehensive
Amount Awarded: $15,000

THE HOUSING AUTHORITY OF THE CITY OF SHAWNEE
601 West 7th Street
P.O. Box 3427
Shawnee, OK 74802–3427
Grant Type: Comprehensive
Amount Awarded: $15,000

UNIVERSAL HOUSING DEVELOPMENT CORPORATION
301 E 3rd St
P.O. Box 846
Russellville, AR 72811–5109
Grant Type: Comprehensive
Amount Awarded: $54,816

UTAH STATE UNIVERSITY—FAMILY LIFE CENTER
493 N 700 E
Logan, UT 84321–4231
Grant Type: Comprehensive
Amount Awarded: $53,852

UU HOUSING ASSISTANCE CORPORATION
221 West Poplar
San Antonio, TX 78212–
Grant Type: Comprehensive
Amount Awarded: $15,000

WEST CENTRAL MISSOURI RURAL COMMUNITY ACTION
106 W 4th St
P.O. Box 125
Appleton City, MO 64724–
Grant Type: Comprehensive
Amount Awarded: $92,704

WOMEN'S OPPORTUNITY RESOURCE DEVELOPMENT, INCORPORATED
127 N Higgins Ave
Room 307
Missoula, MT 59802–4457
Grant Type: Comprehensive
Amount Awarded: $65,000

YOUR COMMUNITY CONNECTION
2261 Adams Ave
Ogden, UT 84401–1510
Grant Type: Comprehensive
Amount Awarded: $17,874

Philadelphia (LHCA—COMP)

AFFORDABLE HOMES OF MILLVILLE ECUMENICAL
518 North High Street
P.O. Box 241
Millville, NJ 08332–
Grant Type: Comprehensive
Amount Awarded: $17,798

ALBANY COUNTY RURAL HOUSING ALLIANCE, INCORPORATED
24 Martin Road
P.O. Box 407
Voorheesville, NY 12186–
Grant Type: Comprehensive
Amount Awarded: $44,988

ARUNDEL COMMUNITY DEVELOPMENT SERVICE INCORPORATED
2660 Riva Road
Suite 210
Annapolis, MD 21401–
Grant Type: Comprehensive
Amount Awarded: $20,596

ASIAN AMERICANS FOR EQUALITY
111 Division St
New York, NY 10002
Grant Type: Comprehensive
Amount Awarded: $17,798

BELMONT SHELTER CORPORATION
1195 Main Street
Buffalo, NY 14209–2196
Grant Type: Comprehensive
Amount Awarded: $40,000

BERKS COMMUNITY ACTION PROGRAM BUDGET COUNSEL
247 N. 5th St.
Reading, PA 19601–
Grant Type: Comprehensive
Amount Awarded: $20,596

BERKSHIRE COUNTY REGIONAL HOUSING AUTHORITY–H
150 North Street, Suite 28
Pittsfield, MA 01201–
Grant Type: Comprehensive
Amount Awarded: $34,000

BETTER HOUSING LEAGUE OF GREATER CINCINNATI
7162 Reading Road, Ste. 608
Cincinnati, OH 45237
Grant Type: Comprehensive
Amount Awarded: $35,000

BETTER NEIGHBORHOODS, INCORPORATED
986 Albany St
Schenectady, NY 12307–
Grant Type: Comprehensive
Amount Awarded: $26,193

BISHOP SHEEN ECUMENICAL HOUSING FOUNDATION
935 East Ave Suite 300
Rochester, NY 14607–2216
Grant Type: Comprehensive
Amount Awarded: $31,660

BURLINGTON COUNTY COMMUNITY ACTION PROGRAM
718 Rt. 130 S.
Burlington, NJ 08016–
Grant Type: Comprehensive
Amount Awarded: $17,798

CENTER CITY NEIGHBORHOOD DEVELOPMENT CORPORATION
1824 Main St
Niagara Falls, NY 14305–2661
Grant Type: Comprehensive
Amount Awarded: $25,000

CENTER FOR FAMILY SERVICES, INCORPORATED
213 W. Center Street
Meadville, PA 16335–3406
Grant Type: Comprehensive
Amount Awarded: $23,395

CENTRAL VERMONT COMMUNITY ACTION COUNCIL, INC.
195 US Route 302—Berlin
Barre, VT 05641–
Grant Type: Comprehensive
Amount Awarded: $41,656

CHAUTAUQUA OPPORTUNITIES, INCORPORATED
17 W Courtney St
Dunkirk, NY 14048–2754
Grant Type: Comprehensive
Amount Awarded: $31,660

CHESTER COMMUNITY IMPROVEMENT PROJECT
412 Avenue of the States
P.O. BOX 541
Chester, PA 19013–0541
Grant Type: Comprehensive
Amount Awarded: $34,992

COASTAL ECONOMIC DEVELOPMENT CORPORATION
34 Wing Farm Parkway
Bath, ME 04530–
Grant Type: Comprehensive
Amount Awarded: $40,000

COASTAL ENTERPRISES, INCORPORATED
41 Water Street
P.O. Box 268
Wiscasset, ME 04578–0268
Grant Type: Comprehensive
Amount Awarded: $20,596

COMMISSION ON ECONOMIC OPPORTUNITY OF LUZERNE
165 Amber Lane
P.O. Box 1127
Wilkes Barre, PA 18703–1127
Grant Type: Comprehensive
Amount Awarded: $20,000

COMMUNITY ACTION COMMISSION OF BELMONT COUNTY
100 W. Main Street, Suite 209
Saint Clairsville, OH 43950–
Grant Type: Comprehensive
Amount Awarded: $15,000

COMMUNITY ACTION COMMITTEE OF LEHIGH VALLEY
1337 E. 5th Street
Bethlehem, PA 18015–
Grant Type: Comprehensive
Amount Awarded: $23,395

COMMUNITY ACTION PROGRAM FOR MADISON COUNTY
3 East Main Street
P.O. Box 249
Morrisville, NY 13408–
Grant Type: Comprehensive
Amount Awarded: $20,596

COMMUNITY ACTION SOUTHWEST
150 W. Beau Street, Suite 304
Washington, PA 15301–
Grant Type: Comprehensive
Amount Awarded: $26,193

COMMUNITY ASSISTANCE NETWORK
7701 Dunmanway
Dundalk, MD 21222–5437
Grant Type: Comprehensive
Amount Awarded: $34,992

COMMUNITY HOUSING, INCORPORATED
613 N Washington St
Wilmington, DE 19801–2135
Grant Type: Comprehensive
Amount Awarded: $25,000

COMMUNITY SERVICE NETWORK, INCORPORATED
52 Broadway
Stoneham, MA 02180–1003
Grant Type: Comprehensive
Amount Awarded: $25,000

COMMUNITY UNIFIED TODAY, INCORPORATED
152 Genesee Street, P.O. Box 268
Geneva, NY 14456–
Grant Type: Comprehensive
Amount Awarded: $15,000

CONCORD AREA TRUST FOR COMMUNITY (CATCH)
79 South State Street
Concord, NH 03301–
Grant Type: Comprehensive
Amount Awarded: $44,988

CONSUMER CREDIT AND BUDGET COUNSELING
299 S. Shore Road, Route 9 South
Marmora, NJ 08223–0866
Grant Type: Comprehensive
Amount Awarded: $17,798

CORTLAND HOUSING ASSISTANCE COUNCIL, INCORPORATED
159 Main St
Cortland, NY 13045–
Grant Type: Comprehensive
Amount Awarded: $15,560

FAIR HOUSING CONTACT SERVICE
333 South Main Street, Ste. 300
Akron, OH 44308
Grant Type: Comprehensive
Amount Awarded: $23,395

FAIR HOUSING RESOURCE CENTER
54 South State Street

Suite 303
Painesville, OH 44077–
Grant Type: Comprehensive
Amount Awarded: $44,988

FAITH FELLOWSHIP COMMUNITY DEVELOPMENT CORPORATION
2707 Main Street
Sayreville, NJ 08872–
Grant Type: Comprehensive
Amount Awarded: $23,395

FAMILY SERVICE AGENCY FAMILY FINANCIAL EDUCATION SERVICES
535 Marmion Avenue
Youngstown, OH 44502–2323
Grant Type: Comprehensive
Amount Awarded: $31,660

FAMILY SERVICE CREDIT COUNSELING
51 11th St
Wheeling, WV 26003–2937
Grant Type: Comprehensive
Amount Awarded: $41,656

FAYETTE COUNTY COMMUNITY ACTION AGENCY
140 North Beeson Avenue
Uniontown, PA 15401–
Grant Type: Comprehensive
Amount Awarded: $25,000

FIRST STATE COMMUNITY ACTION AGENCY, INCORPORATED
308 N Railroad Ave
Georgetown, DE 19947–1252
Grant Type: Comprehensive
Amount Awarded: $50,000

FRIENDS OF THE NORTH COUNTRY
1 Mill Street
P.O. Box 446
Keeseville, NY 12944–
Grant Type: Comprehensive
Amount Awarded: $20,596

GARDEN STATE CONSUMER CREDIT COUNSELING, INC./NOVADEBT
225 Willowbrook Road
Freehold, NJ 07728–
Grant Type: Comprehensive
Amount Awarded: $15,000

GARFIELD JUBILEE ASSOCIATION, INCORPORATED
5138 Penn Ave
Pittsburgh, PA 15224–1616
Grant Type: Comprehensive
Amount Awarded: $40,000

GARRETT COUNTY COMMUNITY ACTION COMMITTEE, INC.
104 E Center St
Oakland, MD 21550–1328
Grant Type: Comprehensive
Amount Awarded: $20,596

GREATER BOSTON LEGAL SERVICES
197 Friend Street
Boston, MA 02114–1802
Grant Type: Comprehensive
Amount Awarded: $40,000

GREATER EAST SIDE COMMUNITY ASSOCIATION
2804 N. Franklin Avenue
Flint, MI 48506–
Grant Type: Comprehensive
Amount Awarded: $17,798

HILL DEVELOPMENT CORPORATION OF NEW HAVEN
649 Howard Avenue
New Haven, CT 06519–1506
Grant Type: Comprehensive
Amount Awarded: $23,395

HOME PARTNERSHIP, INCORPORATED
Rumsey Tower Building Suite 301
626 Towne Center Drive
Joppatowne, MD 21085
Grant Type: Comprehensive
Amount Awarded: $15,000

HOME REPAIR SERVICES OF KENT COUNTY, INCORPORATED
1100 S. Division Avenue
Grand Rapids, MI 49507–
Grant Type: Comprehensive
Amount Awarded: $48,320

HOUSING AUTHORITY OF THE COUNTY OF BUTLER
114 Woody Drive
Butler, PA 16001–
Grant Type: Comprehensive
Amount Awarded: $30,000

HOUSING COALITION OF CENTRAL JERSEY
100 Bayard Street, Third Floor
New Brunswick, NJ 08901–2502
Grant Type: Comprehensive
Amount Awarded: $26,168

HOUSING COUNCIL IN MONROE COUNTY, INCORPORATED
183 Main St. E Suite 1100
Rochester, NY 14604–
Grant Type: Comprehensive
Amount Awarded: $23,395

HOUSING COUNCIL OF YORK
35 South Duke Street
York, PA 17401–1106
Grant Type: Comprehensive
Amount Awarded: $66,000

HOUSING COUNSELING SERVICES, INCORPORATED
2430 Ontario Rd NW
Washington, DC 20009–2705
Grant Type: Comprehensive
Amount Awarded: $91,853

HOUSING INITIATIVES PARTNERSHIP, INCORPORATED
6525 Belcrest Road
Suite 555
Hyattsville, MD 20782
Grant Type: Comprehensive
Amount Awarded: $23,395

HOUSING OPPORTUNITIES MADE EQUAL, INCORPORATED
700 East Franklin Street, Suite 3A
Richmond, VA 23219
Grant Type: Comprehensive
Amount Awarded: $44,988

HOUSING PARTNERSHIP FOR MORRIS COUNTY
2 E. Blackwell Street
Suite 12
Dover, NJ 07801–
Grant Type: Comprehensive
Amount Awarded: $31,659

INNER CITY CHRISTIAN FEDERATION
515 Jefferson, SE
Grand Rapids, MI 49503–
Grant Type: Comprehensive
Amount Awarded: $89,775

ISLES, INCORPORATED
114 N. Montgomery Street
Trenton, NJ 08618–3921
Grant Type: Comprehensive
Amount Awarded: $23,395

JERSEY COUNSELING AND HOUSING DEVELOPMENT, INCORPORATED
1840 S Broadway
Camden, NJ 08104–1334
Grant Type: Comprehensive
Amount Awarded: $31,660

KANAWHA INSTITUTE FOR SOCIAL RESEARCH & ACTION, INCORPORATED
124 Marshall Avenue
Dunbar, WV 25064–
Grant Type: Comprehensive
Amount Awarded: $31,660

KEUKA HOUSING COUNCIL
160 Main Street
Penn Yan, NY 14527–
Grant Type: Comprehensive
Amount Awarded: $20,596

LACONIA AREA COMMUNITY LAND TRUST
P.O. Box 6104
Laconia, NH 03247–
Grant Type: Comprehensive
Amount Awarded: $17,798

LIGHTHOUSE COMMUNITY DEVELOPMENT
46156 Woodward Avenue
Pontiac, MI 48328–
Grant Type: Comprehensive
Amount Awarded: $20,596

LONG ISLAND HOUSING SERVICES, INCORPORATED
3900 Veterans Memorial Highway
Suite 251
Bohemia, NY 11716–1027
Grant Type: Comprehensive
Amount Awarded: $41,656

LUTHERAN HOUSING CORPORATION
13944 Euclid Ave Ste 208
East Cleveland, OH 44112–3832
Grant Type: Comprehensive
Amount Awarded: $48,320

MARGERT COMMUNITY CORPORATION
325 Beach 37th Street
Far Rockaway, NY 11691–4103
Grant Type: Comprehensive
Amount Awarded: $44,988

MARSHALL HEIGHTS COMMUNITY DEVELOPMENT ORGANIZATION
3939 Benning Road, NE
Washington, DC 20019–2662
Grant Type: Comprehensive
Amount Awarded: $15,000

MARYLAND RURAL DEVELOPMENT CORPORATION
101 Cedar Ave
P.O. Box 739
Greensboro, MD 21639–0739
Grant Type: Comprehensive
Amount Awarded: $26,193

MASSACHUSETTS ALLIANCE OF PORTUGUESE SPEAKERS
1046 Cambridge Street
Cambridge, MA 02139–1407
Grant Type: Comprehensive
Amount Awarded: $15,000

METRO-INTERFAITH SERVICES, INCORPORATED
21 New St.
Binghamton, NY 13903–
Grant Type: Comprehensive
Amount Awarded: $20,000

MICHIGAN HOUSING COUNSELORS
237 S.B. Gratiot Ave
Mount Clemens, MI 48043–2410
Grant Type: Comprehensive
Amount Awarded: $27,000

MID–OHIO REGIONAL PLANNING COMMISSION
285 E Main St
Columbus, OH 43215–5272
Grant Type: Comprehensive
Amount Awarded: $25,000

MONMOUTH COUNTY BOARD OF CHOSEN FREEHOLDERS/MONMOUTH COUNTY DIVISION OF SOCIAL SERVICES
P.O. Box 3000
Freehold, NJ 07728–
Grant Type: Comprehensive
Amount Awarded: $30,743

MOUNT AIRY, USA
6703 Germantown Ave—Suite 200
Philadelphia, PA 19119–
Grant Type: Comprehensive
Amount Awarded: $31,660

NATIONAL COUNCIL ON AGRICULTURAL LIFE AND LAB
363 Saulsbury Road
Dover, DE 19904–2722
Grant Type: Comprehensive
Amount Awarded: $15,000

NCCS CENTER FOR NONPROFIT HOUSING
6308 S. Warner
P.O. Box 149
Fremont, MI 49412–
Grant Type: Comprehensive
Amount Awarded: $25,000

NEAR NORTHEAST COMMUNITY IMPROVEMENT CORPORATION
1326 Florida Ave NE
Washington, DC 20002–7108
Grant Type: Comprehensive
Amount Awarded: $34,992

NEIGHBORHOOD HOUSE, INCORPORATED
1218 B St
Wilmington, DE 19801–5844
Grant Type: Comprehensive
Amount Awarded: $23,395

NEIGHBORHOOD HOUSING SERVICES OF NEW BRITAIN, INCORPORATED
223 Broad St
New Britain, CT 06053–4107
Grant Type: Comprehensive
Amount Awarded: $34,992

NEIGHBORS HELPING NEIGHBORS, INCORPORATED
443 39th Street, Suite 202
Brooklyn, NY 11232–
Grant Type: Comprehensive
Amount Awarded: $48,320

NEW JERSEY CITIZEN ACTION
400 Main Street
Hackensack, NJ 07601–5903
Grant Type: Comprehensive
Amount Awarded: $44,988

NEWPORT NEWS OFFICE OF HUMAN AFFAIRS
2410 Wickham Avenue
P.O. Box 37
Newport News, VA 23607–
Grant Type: Comprehensive
Amount Awarded: $11,957

NORTHFIELD COMMUNITY LOCAL DEVELOPMENT CORPORATION
160 Heberton Ave.
Staten Island, NY 10302
Grant Type: Comprehensive
Amount Awarded: $17,798

NORTHWEST COUNSELING SERVICE
5001 N Broad St
Philadelphia, PA 19141–2217
Grant Type: Comprehensive
Amount Awarded: $23,395

NORTHWEST MICHIGAN HUMAN SERVICES AGENCY, INCORPORATED
3963 Three Mile Road
Traverse City, MI 49686–9164
Grant Type: Comprehensive
Amount Awarded: $38,324

OAKLAND COUNTY HOUSING COUNSELING
250 Elizabeth Lake Road
Suite 1900
Pontiac, MI 48341–0414
Grant Type: Comprehensive
Amount Awarded: $38,324

OCEAN COMMUNITY ECONOMIC ACTION NOW, INCORPORATED (O.C.E.A.N.)
22 Hyers Street, P.O. Box 1029
Toms River, NJ 08753–1029
Grant Type: Comprehensive
Amount Awarded: $15,000

OSWEGO HOUSING DEVELOPMENT COUNCIL, INCORPORATED
2822 State Rt. 29
P.O. Box 147
Parish, NY 13131–
Grant Type: Comprehensive
Amount Awarded: $17,798

PATERSON HOUSING AUTHORITY
60 Van Houten Street
P.O. Box H
Paterson, NJ 07519
Grant Type: Comprehensive
Amount Awarded: $17,798

PEOPLES REGIONAL OPPORTUNITY PROGRAM
510 Cumberland Avenue
Portland, ME 04101
Grant Type: Comprehensive
Amount Awarded: $45,000

PHILADELPHIA COUNCIL FOR COMMUNITY ADVANCEMENT
100 North 17th Street—Suite 700
Philadelphia, PA 19103–2736
Grant Type: Comprehensive
Amount Awarded: $30,000

PINE TREE LEGAL SERVICES, INCORPORATED
88 Federal St
P.O. Box 547
Portland, ME 04112–
Grant Type: Comprehensive
Amount Awarded: $34,992

PLYMOUTH REDEVELOPMENT AUTHORITY
11 Lincoln Street
Plymouth, MA 02360–
Grant Type: Comprehensive
Amount Awarded: $36,400

PRO-HOME INCORPORATED
P.O. Box 2793
Taunton, MA 02780–
Grant Type: Comprehensive
Amount Awarded: $34,992

PUTNAM COUNTY HOUSING CORPORATION
11 Seminary Hill Road
Carmel, NY 10512–
Grant Type: Comprehensive
Amount Awarded: $40,000

QUINCY COMMUNITY ACTION PROGRAMS, INCORPORATED
1509 Hancock St
Quincy, MA 02169–5200
Grant Type: Comprehensive
Amount Awarded: $40,000

ROCKLAND HOUSING ACTION COALITION
95 New Clarkstown Road
Nanuet, NY 10954
Grant Type: Comprehensive
Amount Awarded: $40,000

RURAL ULSTER PRESERVATION COMPANY
289 Fair St
Kingston, NY 12401–
Grant Type: Comprehensive
Amount Awarded: $36,425

SCHUYKILL COMMUNITY ACTION
206 North Second Street
Pottsville, PA 17901–2511
Grant Type: Comprehensive
Amount Awarded: $34,000

SOMERSET COUNTY COALITION ON AFFORDABLE HOUSING, INCORPORATED
600 First Avenue
Suite 3
Raritan, NJ 08869–
Grant Type: Comprehensive
Amount Awarded: $55,000

SOUTHERN MARYLAND TRI-COUNTY COMMUNITY ACTION
8383 Leonardtown Rd.
P.O. Box 280
Hughesville, MD 20637–
Grant Type: Comprehensive
Amount Awarded: $35,000

SOUTHWEST MICHIGAN COMMUNITY ACTION AGENCY
185 E. Main Street, Suite 200
Benton Harbor, MI 49022–
Grant Type: Comprehensive
Amount Awarded: $32,955

SPRINGFIELD PARTNERS FOR COMMUNITY ACTION
619 State Street
Springfield, MA 01109–4114
Grant Type: Comprehensive
Amount Awarded: $17,798

ST. JAMES COMMUNITY DEVELOPMENT CORPORATION
402 Broad Street
Newark, NJ 07104–
Grant Type: Comprehensive
Amount Awarded: $26,193

STARK METROPOLITAN HOUSING AUTHORITY
400 E. Tuscarawas Street
Canton, OH 44702–
Grant Type: Comprehensive
Amount Awarded: $20,596

STRYCKER'S BAY NEIGHBORHOOD COUNCIL, INCORPORATED
c/o DOME Project 484 Amsterdam Avenue
New York, NY 10024–
Grant Type: Comprehensive
Amount Awarded: $15,000

TABOR COMMUNITY SERVICES
439 E King St
Lancaster, PA 17608–1676
Grant Type: Comprehensive
Amount Awarded: $26,193

THE WAY HOME
214 Spruce Street
Manchester, NH 03103–
Grant Type: Comprehensive

Amount Awarded: $34,992

TREHAB CENTER INCORPORATED
10 Public Avenue
P.O. Box 366
Montrose, PA 18801–0366
Grant Type: Comprehensive
Amount Awarded: $15,000

TRI-COUNTY HOUSING COUNCIL
143 Hibbard Road P.O. Box 451
Big Flats, NY 14814–
Grant Type: Comprehensive
Amount Awarded: $20,596

UNITED NEIGHBORHOOD CENTERS OF LACKAWANNA COUNCIL
425 Alder Street
Scranton, PA 18505–
Grant Type: Comprehensive
Amount Awarded: $38,324

UNIVERSITY LEGAL SERVICES
300 I St NE Ste 202
Washington, DC 20002–4389
Grant Type: Comprehensive
Amount Awarded: $31,660

VIRGINIA COOPERATIVE EXTENSION—PRINCE WILLIAM
8033 Ashton Ave Ste 105
Manassas, VA 20109–8202
Grant Type: Comprehensive
Amount Awarded: $15,000

WASHINGTON COUNTY COMMUNITY ACTION COUNCIL
101 Summit Ave.
Hagerstown, MD 21740–
Grant Type: Comprehensive
Amount Awarded: $15,000

WASHINGTON COUNTY COMMUNITY HOUSING RESOURCE BOARD
21 East Franklin Street
DBA Hagerstown Home Store
Hagerstown, MD 21740–
Grant Type: Comprehensive
Amount Awarded: $15,000

WESTCHESTER RESIDENTIAL OPPORTUNITIES, INCORPORATED
470 Mamaroneck Ave, Suite 410
White Plains, NY 10605–1830
Grant Type: Comprehensive
Amount Awarded: $34,992

WESTERN CATSKILLS COMMUNITY REVITALIZATION COUNCIL, INCORPORATED
125 Main Street, Box A
Stamford, NY 12167–
Grant Type: Comprehensive
Amount Awarded: $18,000

WOMEN'S COMMUNITY REVITALIZATION PROJECT
407–11 Fairmount Avenue
Philadelphia, PA 19123–
Grant Type: Comprehensive
Amount Awarded: $15,000

WSOS COMMUNITY ACTION COMMISSION, INCORPORATED
109 S. Front Street
P.O. Box 590
Fremont, OH 43420–
Grant Type: Comprehensive
Amount Awarded: $31,660

YWCA OF NEW CASTLE COUNTY
233 King St
Wilmington, DE 19801–2521
Grant Type: Comprehensive
Amount Awarded: $30,000

Santa Ana (LHCA—COMP)

ACCESS INCORPORATED
3630 Aviation Way
P.O. Box 4666
Medford, OR 97501–
Grant Type: Comprehensive
Amount Awarded: $50,000

ADMINISTRATION OF RESOURCES AND CHOICES
P.O. Box 86802
Tucson, AZ 85754–
Grant Type: Comprehensive
Amount Awarded: $52,074

BYDESIGN FINANCIAL SOLUTIONS, DBA CCCS OF LOS ANGELES
5628 E. Slauson Ave.
Los Angeles, CA 90040–2922
Grant Type: Comprehensive
Amount Awarded: $150,000

COMMUNITY ACTION PARTNERSHIP
124 New Sixth Street
Lewiston, ID 83501–
Grant Type: Comprehensive
Amount Awarded: $64,000

COMMUNITY HOUSING AND CREDIT COUNSELING CENTER
1001 Willow Street
Chico, CA 95928–
Grant Type: Comprehensive
Amount Awarded: $40,000

COMMUNITY HOUSING RESOURCE CENTER
3801–A Main Street
Vancouver, WA 98663
Grant Type: Comprehensive
Amount Awarded: $52,074

CONSUMER COUNSELING NORTHWEST (CCNW)
11306 Bridgeport Way SW
Lakewood, WA 98499–3005
Grant Type: Comprehensive
Amount Awarded: $86,612

CONSUMER CREDIT COUNSELING SERVICE OF ALASKA
208 E 4th Ave
Anchorage, AK 99501–2508
Grant Type: Comprehensive
Amount Awarded: $127,250

CONSUMER CREDIT COUNSELING SERVICE OF KERN AND TULARE COUNTIES
5300 Lennox Ave Ste 200
Bakersfield, CA 93309–1662
Grant Type: Comprehensive
Amount Awarded: $52,074

CONSUMER CREDIT COUNSELING SERVICE OF ORANGE COUNTY
1920 Old Tustin Ave
P.O. Box 11330
Santa Ana, CA 92711–1330
Grant Type: Comprehensive
Amount Awarded: $99,163

CONSUMER CREDIT COUNSELING SERVICE OF SOUTHERN NEVADA
2650 S. Jones Blvd
Las Vegas, NV 89146–
Grant Type: Comprehensive
Amount Awarded: $149,949

EDEN COUNCIL FOR HOPE AND OPPORTUNITY/ECHO
770 A St
Hayward, CA 94541–3956
Grant Type: Comprehensive
Amount Awarded: $43,686

FAIR HOUSING COUNCIL OF ORANGE COUNTY
201 S. Broadway
Santa Ana, CA 92701–5633
Grant Type: Comprehensive
Amount Awarded: $52,074

FAMILY HOUSING RESOURCES
1700 East Fort Lowell Road, Suite 101
Tucson, AZ 85719–
Grant Type: Comprehensive
Amount Awarded: $70,000

FREMONT PUBLIC ASSOCIATION
1501 N. 45th St
PO Box 31151
Seattle, WA 98103–
Grant Type: Comprehensive
Amount Awarded: $95,000

HOUSING AUTHORITY OF THE COUNTY OF SANTA CRUZ
2931 Mission St.
Santa Cruz, CA 95060
Grant Type: Comprehensive
Amount Awarded: $35,231

INLAND FAIR HOUSING MEDIATION BOARD
1005 N Begonia Ave
Ontario, CA 91762–
Grant Type: Comprehensive
Amount Awarded: $52,074

KITSAP COUNTY CONSOLIDATED HOUSING AUTHORITY
9307 Bayshore Drive NW
Silverdale, WA 98383–
Grant Type: Comprehensive
Amount Awarded: $60,000

LABOR'S COMMUNITY SERVICE AGENCY
5818 N 7th St Ste 100
Phoenix, AZ 85014–5810
Grant Type: Comprehensive
Amount Awarded: $57,172

LEGAL AID SOCIETY OF HAWAII
924 Bethel Street
P.O. Box 37375
Honolulu, HI 96813–
Grant Type: Comprehensive
Amount Awarded: $42,000

MISSION ECONOMIC DEVELOPMENT ASSOCIATION
3505 20th St
San Francisco, CA 94110
Grant Type: Comprehensive
Amount Awarded: $79,500

NEIGHBORHOOD HOUSE ASSOCIATION
841 S. 41st Street
San Diego, CA 92113
Grant Type: Comprehensive
Amount Awarded: $146,805

OPEN DOOR COUNSELING CENTER
34420 SW Tualatin Valley Hwy
Hillsboro, OR 97123–5470
Grant Type: Comprehensive
Amount Awarded: $63,387

PACIFIC COMMUNITY SERVICES, INCORPORATRED
329 Railroad Ave
Pittsburg, CA 94565–2245
Grant Type: Comprehensive
Amount Awarded: $89,150

PIERCE COUNTY, DEPARTMENT OF COMMUNITY SERVICE
3602 Pacific Ave, Suite 200
Tacoma, WA 98418

Grant Type: Comprehensive
Amount Awarded: $40,000

PROJECT SENTINEL
430 Sherman Avenue
Suite 308
Palo Alto, CA 95306
Grant Type: Comprehensive
Amount Awarded: $15,000

SACRAMENTO NEIGHBORHOOD HOUSING SERVICES, INCORPORATED
3447 Fifth Ave
P.O. Box 5420
Sacramento, CA 95817–
Grant Type: Comprehensive
Amount Awarded: $54,200

SPOKANE NEIGHBORHOOD ACTION PROGRAMS
2116 East First Avenue
Spokane, WA 99202–3937
Grant Type: Comprehensive
Amount Awarded: $126,223

SPRINGBOARD NON PROFIT CONSUMER CREDIT MANAGEMENT
4351 Latham Street
Riverside, CA 92501–
Grant Type: Comprehensive
Amount Awarded: $150,000

UMPQUA COMMUNITY ACTION NETWORK
2448 W Harvard Blvd
Roseburg, OR 97470–
Grant Type: Comprehensive
Amount Awarded: $50,000

WASHOE COUNTY SENIOR LAW PROJECT
1155 E Ninth St
Reno, NV 89512–
Grant Type: Comprehensive
Amount Awarded: $38,000

PREDATORY LENDING (47)

Atlanta (LHCA—PL)

CCCS FORSYTH COUNTY
8064 North Point Boulevard, Suite 204
Winston Salem, NC 27106–
Grant Type: Predatory Lending
Amount Awarded: $25,000

CCCS OF CENTRAL FL AND THE FL GULF COAST, INC.—MAIN OFFICE
3670 Maguire Boulevard, Suite 103
Orlando, FL 32803
Grant Type: Predatory Lending
Amount Awarded: $40,000

CCCS OF WESTERN NORTH CAROLINA
50 S French Broad Ave Ste 227
Asheville, NC 28801–3217
Grant Type: Predatory Lending
Amount Awarded: $15,000

COBB HOUSING, INCORPORATED
268 Lawrence ST, Suite 100
Marietta, GA 30060
Grant Type: Predatory Lending
Amount Awarded: $40,000

ELIZABETH CITY STATE UNIVERSITY
1704 Weeksville Rd.
Elizabeth City, NC 27909–
Grant Type: Predatory Lending
Amount Awarded: $5,850

FAMILY SERVICES INCORPORATED
4925 Lacross St. Ste. 215
North Charleston, SC 29406–
Grant Type: Predatory Lending
Amount Awarded: $3,250

GREENVILLE COUNTY HUMAN RELATIONS COMMISSION
301 University Ridge, Suite 1600
Greenville, SC 29601–3660
Grant Type: Predatory Lending
Amount Awarded: $40,000

GWINNETT HOUSING RESOURCE PARTNERSHIP, INCORPORATED
2825 Breckinridge Blvd. Suite 160
Duluth, GA 30096–
Grant Type: Predatory Lending
Amount Awarded: $30,000

JACKSONVILLE AREA LEGAL AID, INCORPORATED
126 W. Adams Street
Jacksonville, FL 32202–3849
Grant Type: Predatory Lending
Amount Awarded: $39,620

MOMENTIVE CONSUMER CREDIT COUNSELING SERVICE
615 N. Alabama Street
Suite 134
Indianapolis, IN 46204–1477
Grant Type: Predatory Lending
Amount Awarded: $40,000

Atlanta (SHFA—PL)

INDIANA HOUSING FINANCE AUTHORITY
30 South Meridian Street, Ste 1000
Indianapolis, IN 46204
Grant Type: Predatory Lending
Amount Awarded: $54,622

KENTUCKY HOUSING CORPORATION
1231 Louisville Road
Frankfort, KY 40601–
Grant Type: Predatory Lending
Amount Awarded: $50,000

Denver (LHCA—PL)

CDC OF BROWNSVILLE
901 East Levee Street
Brownsville, TX 78520–5804
Grant Type: Predatory Lending
Amount Awarded: $25,000

CITY OF SAN ANTONIO/COMMUNITY ACTION DIVISION
700 So. Zarzamora, Suite 207
P.O. Box 839966
San Antonio, TX 78205–
Grant Type: Predatory Lending
Amount Awarded: $39,176

COMMUNITY ACTION PROJECT OF TULSA COUNTY, INCORPORATED
717 S. Houston, Suite 200
Tulsa, OK 74127
Grant Type: Predatory Lending
Amount Awarded: $25,000

COMMUNITY ACTION SERVICES
815 South Freedom Blv., Suite 100
Provo, UT 84601–
Grant Type: Predatory Lending
Amount Awarded: $7,965

GREATER KANSAS CITY HOUSING INFORMATION CENTER
6285 Paseo Blvd
Kansas City, MO 64110
Grant Type: Predatory Lending
Amount Awarded: $24,383

HOUSING PARTNERS OF TULSA, INCORPORATED
415 E. Independence
P.O. Box 6369
Tulsa, OK 74106–
Grant Type: Predatory Lending
Amount Awarded: $40,000

LEGAL SERVICES OF EASTERN MISSOURI, INCORPORATED
4232 Forest Park Ave
St. Louis, MO 63108–2811
Grant Type: Predatory Lending
Amount Awarded: $40,000

PROJECT BRAVO, INCORPORATED
4838 Montana Ave
El Paso, TX 79903–
Grant Type: Predatory Lending
Amount Awarded: $38,364

SOUTH ARKANSAS COMMUNITY DEVELOPMENT
406 Clay Street
Arkadelphia, AR 71923–
Grant Type: Predatory Lending
Amount Awarded: $4,900

SOUTHERN MINNESOTA REGIONAL LEGAL SERVICES, INCORPORATED
166 E 4th St., Suite 200
St. Paul, MN 55101
Grant Type: Predatory Lending
Amount Awarded: $20,000

Denver (SHFA—PL)

SOUTH DAKOTA HOUSING DEVELOPMENT AUTHORITY
221 South Central
P.O. Box 1237
Pierre, SD 57501–1237
Grant Type: Predatory Lending
Amount Awarded: $12,675

Intermediaries (PL)

ACORN HOUSING CORPORATION
846 N Broad St 2nd floor 2nd Floor
Philadelphia, PA 19130–2234
Grant Type: Predatory Lending
Amount Awarded: $325,000

NATIONAL ASSOCIATION OF REAL ESTATE BROKERS—INVESTMENT DIVISION, INCORPORATED
1301 85th Ave
Oakland, CA 94621–1605
Grant Type: Predatory Lending
Amount Awarded: $325,000

NATIONAL COUNCIL OF LA RAZA
1111 19th Street NW Ste 1000
Washington, DC 20036–
Grant Type: Predatory Lending
Amount Awarded: $292,500

NEIGHBORHOOD REINVESTMENT CORPORATION
1325 G St NW
Suite 800
Washington, DC 20005–3104
Grant Type: Predatory Lending
Amount Awarded: $275,000

THE HOUSING PARTNERSHIP NETWORK
160 State Street, 5th Fl
Boston, MA 02109–
Grant Type: Predatory Lending
Amount Awarded: $70,526

Philadelphia (LHCA—PL)

BETTER HOUSING LEAGUE OF GREATER CINCINNATI
7162 Reading Road, Ste. 608
Cincinnati, OH 45237
Grant Type: Predatory Lending
Amount Awarded: $40,000

HOME REPAIR SERVICES OF KENT COUNTY, INCORPORATED
1100 S. Division Avenue

Grand Rapids, MI 49507–
Grant Type: Predatory Lending
Amount Awarded: $10,000

HOUSING COUNCIL OF YORK
35 South Duke Street
York, PA 17401–1106
Grant Type: Predatory Lending
Amount Awarded: $40,000

HOUSING COUNSELING SERVICES, INCORPORATED
2430 Ontario Rd NW
Washington, DC 20009–2705
Grant Type: Predatory Lending
Amount Awarded: $40,000

HOUSING OPPORTUNITIES MADE EQUAL, INCORPORATED
700 East Franklin Street, Suite 3A
Richmond, VA 23219
Grant Type: Predatory Lending
Amount Awarded: $40,000

INNER CITY CHRISTIAN FEDERATION
515 Jefferson, SE
Grand Rapids, MI 49503–
Grant Type: Predatory Lending
Amount Awarded: $30,750

LUTHERAN HOUSING CORPORATION
13944 Euclid Ave Ste 208
East Cleveland, OH 44112–3832
Grant Type: Predatory Lending
Amount Awarded: $10,193

NEW JERSEY CITIZEN ACTION
400 Main Street
Hackensack, NJ 07601–5903
Grant Type: Predatory Lending
Amount Awarded: $29,687

SOUTHERN MARYLAND TRI-COUNTY COMMUNITY ACTION
8383 Leonardtown Rd.
P.O. Box 280
Hughesville, MD 20637–
Grant Type: Predatory Lending
Amount Awarded: $10,000

YWCA OF NEW CASTLE COUNTY
233 King St
Wilmington, DE 19801–2521
Grant Type: Predatory Lending
Amount Awarded: $5,000

Philadelphia (SHFA—PL)

RHODE ISLAND HOUSING AND MORTGAGE FINANCE CORPORATION
44 Washington St
Providence, RI 02903–1721
Grant Type: Predatory Lending
Amount Awarded: $56,765

CONSUMER CREDIT COUNSELING SERVICE OF ALASKA
208 E 4th Ave
Anchorage, AK 99501–2508
Grant Type: Predatory Lending
Amount Awarded: $25,300

CONSUMER CREDIT COUNSELING SERVICE OF KERN AND TULARE COUNTIES
5300 Lennox Ave Ste 200
Bakersfield, CA 93309–1662
Grant Type: Predatory Lending
Amount Awarded: $40,000

CONSUMER CREDIT COUNSELING SERVICE OF SOUTHERN NEVADA
2650 S. Jones Blvd
Las Vegas, NV 89146–
Grant Type: Predatory Lending
Amount Awarded: $39,973

FAMILY HOUSING RESOURCES
1700 East Fort Lowell Road, Suite 101
Tucson, AZ 85719–
Grant Type: Predatory Lending
Amount Awarded: $11,000

FREMONT PUBLIC ASSOCIATION
1501 N. 45th St
P.O. Box 31151
Seattle, WA 98103–
Grant Type: Predatory Lending
Amount Awarded: $40,000

LEGAL AID SOCIETY OF HAWAII
924 Bethel Street
P.O. Box 37375
Honolulu, HI 96813–
Grant Type: Predatory Lending
Amount Awarded: $17,490

NEIGHBORHOOD HOUSE ASSOCIATION
841 S. 41st Street
San Diego, CA 92113
Grant Type: Predatory Lending
Amount Awarded: $38,921

Santa Ana (SHFA—PL)

WASHINGTON STATE HOUSING FINANCE COMMISSION
1000 2nd Avenue
Suite 2700
Seattle, WA 98104–1046
Grant Type: Predatory Lending
Amount Awarded: $63,000

Homeownership Voucher (39)

Atlanta (LHCA—S8)

CCCS FORSYTH COUNTY
8064 North Point Boulevard, Suite 204
Winston Salem, NC 27106–
Grant Type: Homeownership Voucher
Amount Awarded: $10,000

COBB HOUSING, INCORPORATED
268 Lawrence St, Suite 100
Marietta, GA 30060
Grant Type: Homeownership Voucher
Amount Awarded: $30,000

DU PAGE HOMEOWNERSHIP CENTER
1333 N Main St
Wheaton, IL 60187–3579
Grant Type: Homeownership Voucher
Amount Awarded: $15,000

HOUSING AUTHORITY OF THE CITY OF FORT WAYNE, INDIANA
2013 S. Anthony Blvd.
Fort Wayne, IN 46803
Grant Type: Homeownership Voucher
Amount Awarded: $17,937

LATIN UNITED COMMUNTIY HOUSING ASSOCIATION
3541 West North Avenue
Chicago, IL 60647–
Grant Type: Homeownership Voucher
Amount Awarded: $30,000

MOBILE HOUSING BOARD
151 S. Claiborne Street
Mobile, AL 36602
Grant Type: Homeownership Voucher
Amount Awarded: $30,000

NORTHWESTERN REGIONAL HOUSING AUTHORITY
869 Highway 105 Ext Ste 10
P.O. Box 2510
Boone, NC 28607–2510
Grant Type: Homeownership Voucher
Amount Awarded: $14,000

SANDHILLS COMMUNITY ACTION PROGRAM, INCORPORATED
103 Saunders St
P.O. Box 937
Carthage, NC 28327–0937
Grant Type: Homeownership Voucher
Amount Awarded: $30,000

TWIN RIVERS OPPORTUNITIES, INCORPORATED
318 Craven St.
P.O. Box 1482
New Bern, NC 28563–
Grant Type: Homeownership Voucher
Amount Awarded: $24,386

URBAN LEAGUE OF LOUISVILLE, INCORPORATED
1535 West Broadway
Louisville, KY 40203
Grant Type: Homeownership Voucher
Amount Awarded: $30,000

Atlanta (SHFA—S8)

GEORGIA HOUSING AND FINANCE AUTHORITY
60 Executive Park South, NE
Atlanta, GA 30329–2231
Grant Type: Homeownership Voucher
Amount Awarded: $14,400

MISSISSIPPI HOME CORPORATION
735 Riverside Drive
P.O. Box 23369
Jackson, MS 39225–3369
Grant Type: Homeownership Voucher
Amount Awarded: $22,500

Denver (LHCA—S8)

CDC OF BROWNSVILLE
901 East Levee Street
Brownsville, TX 78520–5804
Grant Type: Homeownership Voucher
Amount Awarded: $30,000

COMMUNITY ACTION PROJECT OF TULSA COUNTY, INCORPORATED
717 S. Houston, Suite 200
Tulsa, OK 74127
Grant Type: Homeownership Voucher
Amount Awarded: $18,000

HOME-NEW MEXICO, INCORPORATED
3900 Osuna NE
Albuquerque, NM 87109–
Grant Type: Homeownership Voucher
Amount Awarded: $4,700

HOUSING SOLUTIONS FOR THE SOUTHWEST
295 Girard St
Durango, CO 81303–
Grant Type: Homeownership Voucher
Amount Awarded: $5,000

Denver (SHFA—S8)

MONTANA BOARD OF HOUSING
Box 200528
Helena, MT 59620
Grant Type: Homeownership Voucher
Amount Awarded: $5,421

Intermediaries (S8)

ACORN HOUSING CORPORATION
846 N Broad St 2nd floor
2nd Floor
Philadelphia, PA 19130–2234
Grant Type: Homeownership Voucher
Amount Awarded: $275,000

MISSION OF PEACE
Windmill Place, 877 East Fifth Ave.

Flint, MI 48503–
Grant Type: Homeownership Voucher
Amount Awarded: $96,338

NATIONAL COUNCIL OF LA RAZA
1111 19th Street NW Ste 1000
Washington, DC 20036–
Grant Type: Homeownership Voucher
Amount Awarded: $275,000

NEIGHBORHOOD REINVESTMENT CORPORATION
1325 G St NW
Suite 800
Washington, DC 20005–3104
Grant Type: Homeownership Voucher
Amount Awarded: $275,000

THE HOUSING PARTNERSHIP NETWORK
160 State Street, 5th Fl
Boston, MA 02109–
Grant Type: Homeownership Voucher
Amount Awarded: $78,662

Philadelphia (LHCA—S8)

BELMONT SHELTER CORPORATION
1195 Main Street
Buffalo, NY 14209–2196
Grant Type: Homeownership Voucher
Amount Awarded: $30,000

HOUSING COUNCIL OF YORK
35 South Duke Street
York, PA 17401–1106
Grant Type: Homeownership Voucher
Amount Awarded: $20,000

INNER CITY CHRISTIAN FEDERATION
515 Jefferson, SE
Grand Rapids, MI 49503–
Grant Type: Homeownership Voucher
Amount Awarded: $30,000

MONMOUTH COUNTY BOARD OF CHOSEN FREEHOLDERS/MONMOUTH COUNTY DIVISION OF SOCIAL SERVICES
P.O. Box 3000
Freehold, NJ 07728–
Grant Type: Homeownership Voucher
Amount Awarded: $4,611

NEW JERSEY CITIZEN ACTION
400 Main Street
Hackensack, NJ 07601–5903
Grant Type: Homeownership Voucher
Amount Awarded: $30,000

PHILADELPHIA COUNCIL FOR COMMUNITY ADVANCEMENT
100 North 17th Street—Suite 700
Philadelphia, PA 19103–2736
Grant Type: Homeownership Voucher
Amount Awarded: $30,000

PLYMOUTH REDEVELOPMENT AUTHORITY
11 Lincoln Street
Plymouth, MA 02360–
Grant Type: Homeownership Voucher
Amount Awarded: $5,000

RURAL ULSTER PRESERVATION COMPANY
289 Fair St
Kingston, NY 12401–
Grant Type: Homeownership Voucher
Amount Awarded: $19,130

SOUTHERN MARYLAND TRI-COUNTY COMMUNITY ACTION
8383 Leonardtown Rd.
P.O. Box 280
Hughesville, MD 20637–
Grant Type: Homeownership Voucher
Amount Awarded: $20,000

YWCA OF NEW CASTLE COUNTY
233 King St
Wilmington, DE 19801–2521
Grant Type: Homeownership Voucher
Amount Awarded: $5,000

Philadelphia (SHFA—S8)

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
735 E. Michigan Avenue
P.O. Box 30044
Lansing, MI 48909–
Grant Type: Homeownership Voucher
Amount Awarded: $21,286

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY
637 South Clinton Avenue
Trenton, NJ 08650–
Grant Type: Homeownership Voucher
Amount Awarded: $21,287

Santa Ana (LHCA—S8)

CONSUMER CREDIT COUNSELING SERVICE OF KERN AND TULARE COUNTIES
5300 Lennox Ave Ste 200
Bakersfield, CA 93309–1662
Grant Type: Homeownership Voucher
Amount Awarded: $30,000

FAMILY HOUSING RESOURCES
1700 East Fort Lowell Road, Suite 101
Tucson, AZ 85719–
Grant Type: Homeownership Voucher
Amount Awarded: $5,000

HOUSING AUTHORITY OF THE COUNTY OF SANTA CRUZ
2931 Mission St.
Santa Cruz, CA 95060
Grant Type: Homeownership Voucher
Amount Awarded: $4,836

LEGAL AID SOCIETY OF HAWAII
924 Bethel Street
P.O. Box 37375
Honolulu, HI 96813–
Grant Type: Homeownership Voucher
Amount Awarded: $21,969

Santa Ana (SHFA—S8)

WASHINGTON STATE HOUSING FINANCE COMMISSION
1000 2nd Avenue
Suite 2700
Seattle, WA 98104–1046
Grant Type: Homeownership Voucher
Amount Awarded: $45,000

Intermediary (Colonias)

WEST TENNESSEE LEGAL SERVICES, INCORPORATED
210 West Street
P.O. Box 2066
Jackson, TN 38302–2066
Grant Type: Colonias
Amount Awarded: $200,000

Denver (LHCA—Colonias)

COMMUNITY DEVELOPMENT CORP. OF BROWNSVILLE
901 East Levee Street
Brownsville, TX 78520–5804
Grant Type: Colonias
Amount Awarded: $30,000

PROJECT BRAVO, INCORPORATED
4838 Montana Ave
El Paso, TX 79903
Grant Type: Colonias
Amount Awarded: $28,809

[FR Doc. E5–2060 Filed 4–29–05; 8:45 am]

BILLING CODE 4210–27–P

INTER-AMERICAN FOUNDATION

Sunshine Act Meetings

Agenda for Meetings of the Board of Directors

April 5, 2005

10:30 p.m.–11:30 p.m.

The meeting was held via a conference call.

The meeting was closed as provided in 22 CFR Part 1004.4(f) to discuss matters related to the evaluation of candidates for the position of President of the Inter-American Foundation.

10:30 p.m. Call to order; Begin executive session.
11:30 p.m. Adjourn.

May 11, 2005

9:30 p.m.–12:30 p.m.

The meeting will be closed as provided in 22 CFR Part 1004.4(f) to discuss matters related to the evaluation of candidates for the position of President of the Inter-American Foundation.

The meeting will be held at Entergy Corporation, 101 Constitution Avenue, NW., Suite 200 East, Washington, DC 20001.

9:30 p.m. Call to order; Begin executive session.
12:30 p.m. Adjourn.

Jocelyn Nieva,

Acting General Counsel.

[FR Doc. 05–8762 Filed 4–28–05; 10:19 am]

BILLING CODE 7025–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of an Environmental Assessment/Habitat Conservation Plan for a Portion of the Cibolo Canyon Property (Master Phase II), Bexar County, TX

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of availability and 60-day public comment period.

SUMMARY: The Applicant, Lumberman's Investment Corporation (LIC), has applied for an incidental take permit (TE–102437–0) pursuant to Section 10(a) of the Endangered Species Act of

1973, as amended (Act). The requested permit would authorize incidental take of the endangered golden-cheeked warbler. The proposed take would occur as a result of the construction and operation of a mixed-use community, including hotel-resort, golf, commercial, and residential development in the City of San Antonio, Bexar County, Texas.

DATES: To ensure consideration, written comments must be received on or before July 1, 2005.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by written or telephone request to Dawn Whitehead, U.S. Fish and Wildlife Service, Ecological Services Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request or by appointment only during normal business hours (8 a.m. to 4:30 p.m.) at the U.S. Fish and Wildlife Service Office, Ecological Services Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758. Data or comments concerning the application and EA/HCP should be submitted in writing to the Field Supervisor, U.S. Fish and Wildlife Service Office, Austin, Texas at the above address. Please refer to permit number TE–102437–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Dawn Whitehead, Ecological Services Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057).

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact will not be made until at least 60 days from the date of publication of this notice. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicants: As part of the preferred alternative, LIC has developed an HCP that specifies what steps the Applicant will take to avoid, minimize, and mitigate the potential impacts to the golden-cheeked warbler associated with development, construction, and occupation of the Master Phase II, Bexar County, Texas, to the greatest extent practicable.

The preferred alternative is the issuance of a permit under section 10(a)(1)(B) of the Act to authorize the potential incidental take of the golden-cheeked warbler within the 1,609 acre permit area. The requested term of the permit is 30 years. Mitigation efforts under the proposed HCP would include, among other things, the perpetual dedication and management of approximately 760 acres (307.6 hectares) of the 1,609-acre permit area as a preserve for the golden-cheeked warbler. These 760 acres are considered to be the highest quality warbler habitat on the property. Much of this area is adjacent to a 331 acre (134 hectares) block of contiguous warbler habitat that has been preserved in perpetuity for the golden-cheeked warbler under a separate consultation with the Service. The proposed preserve system is also adjacent to an even larger block of privately-owned potential warbler habitat to the east, most of which is considered relatively un-developable due to topographic and other constraints.

Three other alternatives to this action were rejected because the environmental impacts would be greater than, or similar to, the proposed action, but would not provide as great a conservation benefit as the proposed action, and/or were not economically viable.

Background: LIC owns approximately 2,855 acres (1160 hectares) of property proposed for a mixed-use community that includes hotel-resort, golf, commercial, and residential development. The property is bordered to the south by Evans Road and to the west by Bulverde Road in the City of San Antonio, Bexar County, Texas. The 2,855 acres is comprised of three separately purchased tracts: the Evans Road Tract (1,812 acres (733.3 hectares) acquired in 1986); the Wolverton Tract (785 acres (317.7 hectares) acquired in 2000); and the nearby, but not contiguous, North Triangle Tract (258 acres (104.4 hectares) acquired in 2001). The combination of these three tracts is now called the Cibolo Canyon Property. The Cibolo Canyon Property was divided into two development phases: Master Phase I and Master Phase II. Master Phase I is located in the southern and western sections of the Cibolo Canyon Property and totals approximately 1,230 acres (497.8 hectares). Based upon available information, LIC determined there would be no impacts to threatened or endangered species that would occur as a result of developing Master Phase I and therefore elected not to pursue additional coverage under the Endangered Species Act. Master Phase II is located in the northern and eastern section of the Cibolo Canyon Property and totals approximately 1,609 acres (651 hectares). The requested section 10(a)(1)(B) permit will cover impacts to the Golden-cheeked Warbler associated with Master Phase II only.

Bryan Arroyo,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 05–8648 Filed 4–29–05; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Migratory Bird Permits; Allowed Take of Nestling American Peregrine Falcons

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We (the U.S. Fish and Wildlife Service) have updated information on nesting of American peregrine falcons (*Falco peregrinus anatum*) in the western United States and have determined the allowed take of nestlings in 12 western states in 2005.

FOR FURTHER INFORMATION CONTACT: Brian Millsap, Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 703–358–1714, or Dr. George T. Allen, Wildlife Biologist, (703) 358–1825.

SUPPLEMENTARY INFORMATION: In 2004, we completed a Final Revised Environmental Assessment (FEA) considering the take of nestling American peregrine falcons in 12 states in the western United States. Since completion of the FEA, we have consulted with the states in which take of nestlings is allowed, and have considered recent information on the numbers of nesting American peregrine falcon populations and production of young American peregrine falcons in those states, as outlined in the ''Management of Falconry Take'' section of the FEA. Having considered the most recent data available to us, we have updated the population information from the FEA. For states with no new statewide survey data, we assumed no population growth since the last survey.

The allowed take in 2004 was approximately 4.8 percent of the total estimated production of young, though actual harvest was approximately 0.5% of the estimated production. The allowed take of nestling American peregrine falcons in the western U.S. in 2005 is shown in the last column of the data summary. Because the number of nestlings allowed to be taken in each state is rounded down to the next lowest whole number, the allowed take will be approximately 3.9 percent of the total estimated production of young for 2005.

State	Nesting pairs reporting in the FFA	2004 Nesting pairs	Recent productivity (young per nesting pair)	2004 Allowed take	2005 Allowed take
Alaska	930	930	0.95	44	44
Arizona	167	167	1.02	8	8
California	167	167	1.52	11	11
Colorado	87	87	1.71	5	7
Idaho	24	26	1.47	1	1
Montana	41	52	1.89	4	4
Nevada	9	9	Insufficient Data	0	0
New Mexcio	37	37	1.47	2	2
Oregon	70	76	1.70	5	6
Utah	164	164	1.55	13	12
Washington	46	46	1.47	3	3
Wyoming	58	65	1.79	5	5
Total	1,800	1,826	NA	101	103

The states may regulate details of take, consistent with the federal falconry regulations found at 50 CFR 21.28 and 21.29. For example, the state may decide whether to allow take of nestlings, numbers of individuals of each sex that may be taken, timing and location of take of nestlings, restrictions on aerie access, and allocation of take among interested falconers.

Dated: March 16, 2005.

Matt Hogan,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 05–8687 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(WY–060–1320–EL), WYW155132]

Notice of Intent To Prepare an Environmental Impact Statement for Coal Lease by Application in Campbell County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM) has received a competitive coal lease application from Foundation Coal West, Inc., (Foundation) for a maintenance tract of Federal coal adjacent to the company's Eagle Butte Mine in Campbell County, Wyoming. A maintenance tract is a parcel of land containing coal reserves that can be leased to maintain production at an existing mine. This tract, which was applied for as a lease by application (LBA) under the provisions of 43 Code of Federal Regulations (CFR) 3425.1, is called the Eagle Butte West Tract and has been assigned case number WYW155132. Consistent with the National Environmental Policy Act (NEPA) regulations, BLM must prepare an environmental analysis prior to holding a competitive Federal coal lease sale. In accordance with the provisions of Section 102 (2)(C) of NEPA, BLM is announcing it will prepare an Environmental Impact Statement (EIS) for this lease application and is soliciting public comments regarding issues and resource information.

DATES: This notice initiates the EIS scoping process. The BLM can best use public input if comments and resource information are submitted by August 1, 2005. On May 17, 2005, the BLM will host a public scoping meeting at 7 p.m. at the Clarion Hotel and Convention Center, 2009 South Douglas Highway, Gillette, Wyoming. At the public scoping meeting the public is invited to submit comments and resource information, and identify issues or concerns to be considered in the LBA process. The BLM will announce future public meetings and other opportunities to submit comments on this project at least 15 days prior to the event. Announcements will be made through local news media and the Casper Field Office's Web site, which is: *http://www.wy.blm.gov/cfo.*

ADDRESSES: Please submit written comments or concerns to the BLM Casper Field Office, Attn: Nancy Doelger, 2987 Prospector Drive, Casper, Wyoming 82604. Written comments or resource information may also be hand-delivered to the BLM Casper Field Office or sent by facsimile to the attention of Nancy Doelger at 307–261–7587. Comments may be sent electronically to *casper_wymail@blm.gov;* please put Eagle Butte West Tract/Nancy Doelger in the subject line.

Members of the public may examine documents pertinent to this proposal by visiting the Casper Field Office during its business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except holidays.

Your response is important and will be considered in the EIS process. If you do respond, we will keep you informed of the availability of environmental documents that address impacts that might occur from this proposal. Please note that comments and information submitted regarding this project including names, electronic mail addresses and street addresses of the respondents will be available for public review and disclosure at the Casper Field Office. Individuals may request confidentiality. If you wish to withhold your name, electronic mail address, or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, or from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Nancy Doelger or Mike Karbs, BLM

Casper Field Office, 2987 Prospector Drive, Casper, Wyoming 82604. Ms. Doelger or Mr. Karbs may also be reached by telephone at 307–261–7600.

SUPPLEMENTARY INFORMATION: An application to lease the Federal coal on the Eagle Butte West Tract adjacent to the Eagle Butte Mine was filed on December 28, 2001, by RAG Coal West, Inc. Foundation purchased the Eagle Butte Mine from RAG Coal West, Inc., in August 2004. The Powder River Regional Coal Team reviewed this lease application at a public meeting held on May 30, 2002, in Casper, Wyoming, and recommended that BLM process it.

The applicant filed a request to modify the tract on October 16, 2003. As currently filed, the application includes approximately 243.2 million tons of in-place Federal coal underlying the following lands in Campbell County, Wyoming:

T. 51 N., R. 72 W., 6th P.M., Wyoming

Section 19: Lots 13, 14, 19, and 20;
Section 20: Lots 10 (S½), 11 (S½), and 12 through 15;
Section 29: Lots 1 (W½), 2 through 7, 8 (W½ and SE¼), and 9 through 16;
Section 30: Lots 5, 6, 11 through 14, 19 and 20.

Containing 1,397.64 acres more or less.

The surface estate overlying the Federal coal is privately owned.

Foundation proposes to mine the tract as a part of the Eagle Butte Mine. At the 2004 mining rate of 23 million tons per year, the coal included in the Eagle Butte West Tract would extend the life of the Eagle Butte Mine by approximately 10.5 years. In accordance with 43 CFR 3425.1–9, BLM will evaluate unleased Federal coal in and around the tract and may decide to add or subtract lands to avoid bypassing Federal coal or to increase potential competitive interest in the tract.

The Eagle Butte Mine is operating under approved mining permits from the Land Quality and Air Quality Divisions of the Wyoming Department of Environmental Quality.

The Office of Surface Mining Reclamation and Enforcement (OSM) will be a cooperating agency in the preparation of the EIS. If the Eagle Butte West Tract is leased to the applicant, the new lease must be incorporated into the existing mining and reclamation plan for the adjacent mine and the Secretary of the Interior must approve the revised Mineral Leasing Act (MLA) mining plan before the Federal coal in the tract can be mined. OSM is the Federal agency that would be responsible for recommending approval, approval with conditions, or disapproval of the revised MLA mining plan to the office of the Secretary of the Interior.

The BLM will provide interested parties the opportunity to submit comments or relevant information or both. This information will help BLM identify issues to be considered in preparing a draft EIS for the Eagle Butte West Tract. Specific issues that have been identified at this time include the presence of city and county facilities, including the Gillette Airport and the Rawhide Elementary School, and occupied residences in the vicinity of the tract. Issues that have been identified in analyzing the impacts of previous Federal coal leasing actions in the Wyoming PRB include the need for resolution of conflicts between existing and proposed oil and gas development and coal mining on the tract proposed for leasing; potential impacts to big game herds and hunting; potential impacts to sage grouse; potential impacts to listed threatened and endangered species; potential health impacts related to blasting operations conducted by the mines to remove overburden and coal; the need to consider the cumulative impacts of coal leasing decisions combined with other existing and proposed development in the Wyoming PRB; and potential site-specific and cumulative impacts on air and water quality.

Robert A. Bennett,

State Director.

[FR Doc. 05–6981 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–038–1220–AL; HAG 05–0112]

National Historic Oregon Trail Interpretive Center Advisory Board Meeting

AGENCY: Bureau of Land Management (BLM).

ACTION: Meeting notice for National Historic Oregon Trail Interpretive Center Advisory Board

SUMMARY: The National Historic Oregon Trail Interpretive Center Advisory Board will meet June 1, 2005, from 1 to 5 p.m. (PDT) at the Best Western Sunridge Inn, One Sunridge Way, Baker City, Oregon.

Meeting topics may include the long-range marketing plan, education and outreach, the strategic plan versus budget, and other topics as may come before the board. The meeting is open to the public. Public comment is scheduled for 2 to 2:15 p.m.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the National Historic Oregon Trail Interpretive Center Advisory Board may be obtained from Debbie Lyons, Public Affairs Officer, Vale District Office, 100 Oregon Street, Vale, Oregon 97918, (541) 473–6218 or e-mail *Debra_Lyons@or.blm.gov.*

Dated: April 26, 2005.

Tom Terry,

Acting District Manager.

[FR Doc. 05–8651 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–05–1310–DB]

Notice of Meeting of the Pinedale Anticline Working Group's Wildlife Task Group

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (1976) and the Federal Advisory Committee Act (1972), the U.S. Department of the Interior, Bureau of Land Management (BLM) Pinedale Anticline Working Group (PAWG) Wildlife Task Group (subcommittee) will meet in Pinedale, Wyoming, for a business meeting. Task Group meetings are open to the public.

DATES: A PAWG Wildlife Task Group meeting is scheduled for May 24, 2005 from 9 a.m. until 4 p.m.

ADDRESSES: The meeting will be held at the BLM Pinedale Field Office at 432 E. Mills St., Pinedale, WY.

FOR FURTHER INFORMATION CONTACT: Steve Belinda, BLM/Wildlife TG Liaison, Bureau of Land Management, Pinedale Field Office, 432 E. Mills St., PO Box 768, Pinedale, WY 82941; (307) 367–5323.

SUPPLEMENTARY INFORMATION: The Pinedale Anticline Working Group (PAWG) was authorized and established with release of the Record of Decision (ROD) for the Pinedale Anticline Oil and Gas Exploration and Development Project on July 27, 2000. The PAWG's charter is to advise the BLM on development and implementation of monitoring plans and adaptive management decisions for the life of the Pinedale Anticline natural gas field. The PAWG subsequently established seven resource- or activity-specific Task Groups, including one for Wildlife.

The agenda for this meeting will include a review and discussion of monitoring proposals accepted by the PAWG, an update on Anticline sage-grouse and mule deer research, and discussion of possible changes to mitigation and habitat management guidelines for sage-grouse and mule deer. At a minimum, public comments will be heard just prior to adjournment of the meeting.

Dated: April 25, 2005.

Priscilla E. Mecham,

Field Manager.

[FR Doc. 05–8743 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW145691]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Proposed Reinstatement and Rental/Royalty Reduction of Terminated Oil and Gas Lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a), the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease WYW145691 for lands in Big Horn County, Wyoming. The petition was filed on time, was accompanied by all the rentals due since the date the lease terminated and, in accordance with 30 U.S.C. 188(i)(2) and 43 CFR 3108.2–3(f) included a request for reduced rental and royalty.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rental and royalty at rates of $10.00 per acre or fraction of an acre per year and 16⅔ percent, respectively. However, this office is of the opinion that the lessees request for reduced rental and royalty rates contains sufficient evidence to determine that in the absence of granting a reduction of the rental and royalty rates to that of the original lease terms, undue economic hardship will occur and that it is equitable to do so. Therefore, upon reinstatement the rental and royalty rates for lease WYW145691 will remain at $2.00 per acre or fraction of an acre per year and 12½ percent, respectively. The lessee has paid the required $500 administrative fee and $166 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW145691 effective August 1, 2003, under the original terms and conditions of the lease, rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 05–8628 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW145705]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement and rental/royalty reduction of terminated oil and gas lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a), the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease WYW145705 for lands in Big Horn County, Wyoming. The petition was filed on time, was accompanied by all the rentals due since the date the lease terminated and, in accordance with 30 U.S.C. 188(i)(2) and 43 CFR 3108.2–3(f) included a request for reduced rental and royalty.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rental and royalty at rates of $10.00 per acre or fraction of an acre per year and 16⅔ percent, respectively. However, this office is of the opinion that the lessees request for reduced rental and royalty rates contains sufficient evidence to determine that in the absence of granting a reduction of the rental and royalty rates to that of the original lease terms, undue economic hardship will occur and that it is equitable to do so. Therefore, upon reinstatement the rental and royalty rates for lease WYW145705 will remain at $2.00 per acre or fraction of an acre per year and 12½ percent, respectively. The lessee has paid the required $500 administrative fee and $166 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW145705 effective August 1, 2003, under the original terms and conditions of the lease, rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 05–8629 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW145707]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement and rental/royalty reduction of terminated oil and gas lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a), the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease WYW145707 for lands in Big Horn County, Wyoming. The petition was filed on time, was accompanied by all the rentals due since the date the lease terminated and, in accordance with 30 U.S.C. 188(i)(2) and 43 CFR 3108.2–3(f) included a request for reduced rental and royalty.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rental and royalty at rates of $10.00 per acre or fraction of an acre per year and 16⅔ percent, respectively. However, this office is of the opinion that the lessees request for reduced rental and royalty rates contains sufficient evidence to determine that in the absence of granting a reduction of the rental and royalty rates to that of the original lease terms, undue economic

hardship will occur and that it is equitable to do so. Therefore, upon reinstatement the rental and royalty rates for lease WYW145707 will remain at $2.00 per acre or fraction of an acre per year and 12½ percent, respectively. The lessee has paid the required $500 administrative fee and $166 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW145707 effective August 1, 2003, under the original terms and conditions of the lease, rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 05–8630 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW145706]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement and rental/royalty reduction of terminated oil and gas lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a), the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease WYW145706 for lands in Big Horn County, Wyoming. The petition was filed on time, was accompanied by all the rentals due since the date the lease terminated and, in accordance with 30 U.S.C. 188(i)(2) and 43 CFR 3108.2–3(f) included a request for reduced rental and royalty.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rental and royalty at rates of $10.00 per acre or fraction of an acre per year and 16⅔ percent, respectively. However, this office is of the opinion that the lessees request for reduced rental and royalty rates contains sufficient evidence to determine that in the absence of granting a reduction of the rental and royalty rates to that of the original lease terms, undue economic hardship will occur and that it is equitable to do so. Therefore, upon reinstatement the rental and royalty rates for lease WYW145706 will remain at $2.00 per acre or fraction of an acre per year and 12½ percent, respectively. The lessee has paid the required $500 administrative fee and $166 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW145706 effective August 1, 2003, under the original terms and conditions of the lease, rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 05–8631 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW145695]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement and rental/royalty reduction of terminated oil and gas lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a), the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease WYW145695 for lands in Big Horn County, Wyoming. The petition was filed on time, was accompanied by all the rentals due since the date the lease terminated and, in accordance with 30 U.S.C. 188(i)(2) and 43 CFR 3108.2–3(f) included a request for reduced rental and royalty.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rental and royalty at rates of $10.00 per acre or fraction of an acre per year and 16⅔ percent, respectively. However, this office is of the opinion that the lessees request for reduced rental and royalty rates contains sufficient evidence to determine that in the absence of granting a reduction of the rental and royalty rates to that of the original lease terms, undue economic hardship will occur and that it is equitable to do so. Therefore, upon reinstatement the rental and royalty rates for lease WYW145695 will remain at $2.00 per acre or fraction of an acre per year and 12½ percent, respectively. The lessee has paid the required $500 administrative fee and $166 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW145695 effective August 1, 2003, under the original terms and conditions of the lease, rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 05–8632 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW145694]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement and rental/royalty reduction of terminated oil and gas lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a), the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease WYW145694 for lands in Big Horn County, Wyoming. The petition was filed on time, was accompanied by all the rentals due since the date the lease terminated and, in accordance with 30 U.S.C. 188(i)(2) and 43 CFR 3108.2–3(f) included a request for reduced rental and royalty.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rental and royalty at rates of $10.00

per acre or fraction of an acre per year and 16⅔ percent, respectively. However, this office is of the opinion that the lessees request for reduced rental and royalty rates contains sufficient evidence to determine that in the absence of granting a reduction of the rental and royalty rates to that of the original lease terms, undue economic hardship will occur and that it is equitable to do so. Therefore, upon reinstatement the rental and royalty rates for lease WYW145694 will remain at $2.00 per acre or fraction of an acre per year and 12½ percent, respectively. The lessee has paid the required $500 administrative fee and $166 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW145694 effective August 1, 2003, under the original terms and conditions of the lease, rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 05–8633 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW145708]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement and rental/royalty reduction of terminated oil and gas lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a), the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease WYW145708 for lands in Big Horn County, Wyoming. The petition was filed on time, was accompanied by all the rentals due since the date the lease terminated and, in accordance with 30 U.S.C. 188(i)(2) and 43 CFR 3108.2–3(f) included a request for reduced rental and royalty.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rental and royalty at rates of $10.00 per acre or fraction of an acre per year and 16⅔ percent, respectively. However, this office is of the opinion that the lessees request for reduced rental and royalty rates contains sufficient evidence to determine that in the absence of granting a reduction of the rental and royalty rates to that of the original lease terms, undue economic hardship will occur and that it is equitable to do so. Therefore, upon reinstatement the rental and royalty rates for lease WYW145708 will remain at $2.00 per acre or fraction of an acre per year and 12½ percent, respectively. The lessee has paid the required $500 administrative fee and $166 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW145708 effective August 1, 2003, under the original terms and conditions of the lease, rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 05–8635 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW145712]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement and rental/royalty reduction of terminated oil and gas lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a), the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease WYW145712 for lands in Big Horn County, Wyoming. The petition was filed on time, was accompanied by all the rentals due since the date the lease terminated and, in accordance with 30 U.S.C. 188(i)(2) and 43 CFR 3108.2–3(f) included a request for reduced rental and royalty.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rental and royalty at rates of $10.00 per acre or fraction of an acre per year and 16⅔ percent, respectively. However, this office is of the opinion that the lessees request for reduced rental and royalty rates contains sufficient evidence to determine that in the absence of granting a reduction of the rental and royalty rates to that of the original lease terms, undue economic hardship will occur and that it is equitable to do so. Therefore, upon reinstatement the rental and royalty rates for lease WYW145712 will remain at $2.00 per acre or fraction of an acre per year and 12½ percent, respectively. The lessee has paid the required $500 administrative fee and $166 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW145712 effective August 1, 2003, under the original terms and conditions of the lease, rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 05–8636 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW145711]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement and rental/royalty reduction of terminated oil and gas lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a), the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease WYW145711 for lands in Big Horn County, Wyoming. The petition was filed on time, was accompanied by all the rentals due since the date the lease terminated and, in accordance with 30

U.S.C. 188(i)(2) and 43 CFR 3108.2–3(f) included a request for reduced rental and royalty.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rental and royalty at rates of $10.00 per acre or fraction of an acre per year and 16⅔ percent, respectively. However, this office is of the opinion that the lessees request for reduced rental and royalty rates contains sufficient evidence to determine that in the absence of granting a reduction of the rental and royalty rates to that of the original lease terms, undue economic hardship will occur and that it is equitable to do so. Therefore, upon reinstatement the rental and royalty rates for lease WYW145711 will remain at $2.00 per acre or fraction of an acre per year and 12½ percent, respectively. The lessee has paid the required $500 administrative fee and $166 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW145711 effective August 1, 2003, under the original terms and conditions of the lease, rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 05–8637 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW145710]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement and rental/royalty reduction of terminated oil and gas lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a), the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease WYW145710 for lands in Big Horn County, Wyoming. The petition was filed on time, was accompanied by all the rentals due since the date the lease terminated and, in accordance with 30 U.S.C. 188(i)(2) and 43 CFR 3108.2–3(f) included a request for reduced rental and royalty.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rental and royalty at rates of $10.00 per acre or fraction of an acre per year and 16⅔ percent, respectively. However, this office is of the opinion that the lessees request for reduced rental and royalty rates contains sufficient evidence to determine that in the absence of granting a reduction of the rental and royalty rates to that of the original lease terms, undue economic hardship will occur and that it is equitable to do so. Therefore, upon reinstatement the rental and royalty rates for lease WYW145710 will remain at $2.00 per acre or fraction of an acre per year and 12½ percent, respectively. The lessee has paid the required $500 administrative fee and $166 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW145710 effective August 1, 2003, under the original terms and conditions of the lease, rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 05–8638 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW145709]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement and rental/royalty reduction of terminated oil and gas lease.

SUMMARY: Under the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a), the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease WYW145709 for lands in Big Horn County, Wyoming. The petition was filed on time, was accompanied by all the rentals due since the date the lease terminated and, in accordance with 30 U.S.C. 188(i)(2) and 43 CFR 3108.2–3(f) included a request for reduced rental and royalty.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Fluid Minerals Adjudication, at (307) 775–6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rental and royalty at rates of $10.00 per acre or fraction of an acre per year and 16⅔ percent, respectively. However, this office is of the opinion that the lessees request for reduced rental and royalty rates contains sufficient evidence to determine that in the absence of granting a reduction of the rental and royalty rates to that of the original lease terms, undue economic hardship will occur and that it is equitable to do so. Therefore, upon reinstatement the rental and royalty rates for lease WYW145709 will remain at $2.00 per acre or fraction of an acre per year and 12½ percent, respectively. The lessee has paid the required $500 administrative fee and $166 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW145709 effective August 1, 2003, under the original terms and conditions of the lease, rates cited above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 05–8639 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–22–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–846–850 (Review)]

Carbon and Alloy Seamless Standard, Line, and Pressure Pipe From Czech Republic, Japan, Mexico, Romania, and South Africa

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on carbon and alloy seamless standard,

line, and pressure pipe from Czech Republic, Japan, Mexico, Romania, and South Africa.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on carbon and alloy seamless standard, line, and pressure pipe from Czech Republic, Japan, Mexico, Romania, and South Africa would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is June 21, 2005. Comments on the adequacy of responses may be filed with the Commission by July 15, 2005. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* May 2, 2005.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

*Background.*On the dates listed below, the Department of Commerce issued antidumping duty orders on the subject imports of small diameter carbon and alloy seamless standard, line, and pressure pipe:

Order date	Country	Invoice No.	Federal Register citation
6/26/2000	Japan	731–TA–847	65 FR 39360
6/26/2000	South Africa	731–TA–850	65 FR 39360
8/10/2000	Romania	731–TA–849	65 FR 48963
8/14/2000	Czech Republic	731–TA–846	65 FR 49539

On the dates listed below, the Department of Commerce issued antidumping duty orders on the subject imports of large diameter carbon and alloy seamless standard, line, and pressure pipe:

Order date	Country	Invoice No.	Federal Register citation
6/26/2000	Japan	731–TA–847	65 FR 39360
8/11/2000	Mexico	731–TA–848	65 FR 49227

The Commission is conducting reviews to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are Czech Republic, Japan, Mexico, Romania, and South Africa.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission found two Domestic Like Products corresponding to the two scopes of the investigations: Small diameter carbon and alloy seamless standard, line, and pressure pipe and large diameter carbon and alloy seamless standard, line, and pressure pipe. Certain Commissioners defined the Domestic Like Product differently.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission found two Domestic Industries: A small diameter carbon and alloy seamless standard, line, and pressure pipe industry and a large diameter carbon and alloy seamless standard, line, and pressure pipe industry, encompassing all domestic producers of those products, respectively. Certain Commissioners defined the Domestic Industry differently.

(5) The Order Date is the date that the antidumping duty orders under review became effective. In the reviews concerning Japan and South Africa, the Order Date is June 26, 2000; in the review concerning Romania, the Order Date is August 10, 2000; in the review concerning Mexico, the Order Date is August 11, 2000; and in the review concerning the Czech Republic, the Order Date is August 14, 2000.

(6) An Importer is any person or firm engaged, either directly or through a

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 05–5–120, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list. Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is June 21, 2005. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is July 15, 2005. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution: Please provide the requested information separately for each Domestic Like Product, as defined by the Commission in its original determinations, and for each of the products identified by Commerce as Subject Merchandise. If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Products, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the Domestic Industries in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industries.

(5) A list of all known and currently operating U.S. producers of the

Domestic Like Products. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in each Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since the Order Dates.

(7) If you are a U.S. producer of the Domestic Like Products, provide the following information on your firm's operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Products accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Products produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Products produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from each Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from each Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Products that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Products produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (*Optional*) A statement of whether you agree with the above definitions of the Domestic Like Products and Domestic Industries; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: April 20, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–8717 Filed 4–29–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–429 (Second Review)]

Mechanical Transfer Presses From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on mechanical transfer presses from Japan.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on mechanical transfer presses from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is June 21, 2005. Comments on the adequacy of responses may be filed with the Commission by July 15, 2005. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* May 2, 2005.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 05–5–121, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the office of investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background. On February 16, 1990, the Department of Commerce issued an antidumping duty order on imports of mechanical transfer presses from Japan (55 FR 5642). Following five-year reviews by Commerce and the Commission, effective June 21, 2000, Commerce issued a continuation of the antidumping duty order on imports of mechanical transfer presses from Japan (65 FR 38507). The Commission is now conducting a second review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is Japan.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original and full five-year review determinations, the Commission defined the Domestic Like Product as all mechanical transfer presses. One Commissioner defined the Domestic Like Product differently in the original investigation.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original and full five-year review determinations, the Commission defined the Domestic Industry as all domestic producers of mechanical transfer presses. In the original investigation, one Commissioner defined the Domestic Industry differently. In addition, the Commission excluded one domestic producer, Hitachi-Zosen-Clearing, from the Domestic Industry under the related parties provision in the original investigation. In the full five-year review of the antidumping duty order, the related party provision did not apply.

(5) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list. Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission is seeking guidance as to whether a second transition five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is June 21, 2005. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is July 15, 2005. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you

are not a party to the review you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries after 1999.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2004 (report quantity data in units and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in units and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in units and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country after 1999, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (*Optional*) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: April 20, 2005.

By order of the Commission.

Marilyn R. Abbott

Secretary to the Commission.

[FR Doc. 05–8720 Filed 4–29–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–841 (Review)]

Non-Frozen Concentrated Apple Juice From China

AGENCY: International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on non-frozen concentrated apple juice from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on non-frozen concentrated apple juice from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is June 21, 2005. Comments on the adequacy of responses may be filed with the Commission by July 15, 2005. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* May 2, 2005.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On June 5, 2000, the Department of Commerce issued an antidumping duty order on imports of non-frozen concentrated apple juice from China (65 FR 35606). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is China.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission defined the Domestic Like Product as non-frozen concentrated apple juice.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as all domestic producers of non-frozen concentrated apple juice. The Commission did not include apple growers in the Domestic Industry.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is June 5, 2000.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list. Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 05–5–122, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is June 21, 2005. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is July 15, 2005. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response To This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since the Order Date.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (*Optional*) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: April 20, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–8721 Filed 4–29–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–401 and 731–TA–853 and 854 (Review)]

Structural Steel Beams From Japan and Korea

AGENCY: International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty order on structural steel beams from Korea and the antidumping duty orders on structural steel beams from Japan and Korea.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty order on structural steel beams from Korea and the antidumping duty orders on structural steel beams from Japan and Korea would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is June 21, 2005. Comments on the adequacy of responses may be filed with the Commission by July 15, 2005. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* May 2, 2005.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On the dates listed below, the Department of Commerce issued countervailing duty and antidumping duty orders on the subject imports:

Order date	Product/Country	Inv. No.	F.R. cite
6/19/2000	Structural steel beams/Japan	731–TA–853	65 F.R. 37960.
8/14/2000	Structural steel beams/Korea	701–TA–401	65 F.R. 49542.
8/18/2000	Structural steel beams/Korea	731–TA–854	65 F.R. 50502.

The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are Japan and Korea.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission defined the Domestic Like Product as all structural steel beams of the type described in the Department of Commerce's scope definition.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the Domestic

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 05–5–123, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Industry as all domestic producers of structural steel beams.

(5) The Order Date is the date that the countervailing and antidumping duty orders under review became effective. In the antidumping review concerning Japan, the Order Date is June 19, 2000; in the countervailing duty review concerning Korea, the Order Date is August 14, 2000; and in the antidumping review concerning Korea, the Order Date is August 18, 2000.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list. Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is June 21, 2005. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is July 15, 2005. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response To This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing and antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the

likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in each Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since the Order Dates.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from each Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (*Optional*) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: April 20, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–8719 Filed 4–29–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–318 and 731–TA–538 and 561 (Second Review)]

Sulfanilic Acid From China and India

AGENCY: United States International Trade Commission (ITC).

ACTION: Institution of five-year reviews concerning the countervailing duty order on sulfanilic acid from India and the antidumping duty orders on sulfanilic acid from China and India.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty order on sulfanilic acid from India and the antidumping duty orders on sulfanilic acid from China and India would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is June 21, 2005. Comments on the adequacy of responses may be filed with the Commission by July 15, 2005. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207,

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 05–5–124, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: May 2, 2005.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: *Background.* On the dates listed below, the Department of Commerce issued countervailing duty and antidumping duty orders on the subject imports:

Order date	Product/country	Inv. No.	F.R. cite
8/19/92	Sulfanilic acid/China	731–TA–538	57 F.R. 37524.
3/2/93	Sulfanilic acid/India	731–TA–561	58 F.R. 12025.
3/2/93	Sulfanilic acid/India	701–TA–318	58 F.R. 12026.

Following five-year reviews by Commerce and the Commission, effective June 8, 2000, Commerce issued a continuation of the countervailing duty order on sulfanilic acid from India and the antidumping duty orders on sulfanilic acid from China and India (65 F.R. 36404). The Commission is now conducting second reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are China and India.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original and expedited five-year review determinations, the Commission defined the Domestic Like Product as all sulfanilic acid, regardless of form or grade.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original and expedited five-year review determinations, the Commission defined the Domestic Industry as all domestic producers of sulfanilic acid.

(5) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list. Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission is seeking guidance as to whether a second transition five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is June 21, 2005. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as

specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is July 15, 2005. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to Be Provided in Response to This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing and antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in each Subject Country that currently export or have exported Subject Merchandise to the United States or other countries after 1998.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2004 (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from each Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the

market for the Subject Merchandise in the Subject Countries after 1998, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (*Optional*) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: April 20, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–8718 Filed 4–29–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–851 (Review)]

Synthetic Indigo From China

AGENCY: International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on synthetic indigo from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on synthetic indigo from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is June 21, 2005. Comments on the adequacy of responses may be filed with the Commission by July 15, 2005. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: May 2, 2005.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server *(http://www.usitc.gov)*. The public record for this review may be viewed on the Commission?s electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On June 19, 2000, the Department of Commerce issued an antidumping duty order on imports of synthetic indigo from China (65 FR 37961). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is China.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission defined the Domestic Like Product as synthetic indigo corresponding to Commerce?s scope.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as producers of synthetic indigo, excluding converters.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is June 19, 2000.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list. Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 05–5–125, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is June 21, 2005. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is July 15, 2005. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response To This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and e-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since the Order Date.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2004 (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject

Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) *(Optional)* A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: April 20, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–8722 Filed 4–29–05; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60–Day emergency notice of information collection under review: National drug-related death reporting system.

The Drug Enforcement Administration (DEA) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by DEA. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Comments are encouraged and will be accepted until July 1, 2005.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Christine Sannerud, Ph.D., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information:

(1)*Type of information collection:* New collection.

(2)*The title of the form/collection:* National Drug-Related Death Reporting System.

(3)*The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: None. Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, local and tribal government. Other: None. The National Drug-Related Death Reporting System collects scientifically verified drug-related death information from medical examiners' and coroners' offices that will be used to detect new and/or changing trends in drug abuse; provide local, regional, state and national trends of drug trafficking and abuse; provide information in support of drug scheduling actions; and better monitor the diversion of legitimately marketed drugs.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that the NDDRS will contain approximately 30% of the 3200 offices providing data to the system via direct web submission or direct data extraction. Data extraction will be executed via a computer interface program and will require less than 5 minutes of the respondent's time per month to complete. Data entry into the Web submission form is estimated to take 4 minutes per record, with a request for 50 records per month.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total public burden associated with the Web submission form will be 19,200 hours annually, while bulk data extraction is estimated at 576 hours annually.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: April 27, 2005.

Brenda E. Dyer,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 05–8680 Filed 4–29–05; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 18, 2005, Lilly Del Caribe, Inc., Chemical Plant, Kilometer 146.7, State Road 2, Mayaguez, Puerto Rico 00680, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Dextropropoxyphene (9273), a basic class of controlled substance listed in Schedules II.

The company plans to manufacture the listed controlled substance in bulk for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such a substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative, Liaison and Policy Section (ODL); or any being sent via express mail should be sent to DEA Headquarters, Attention: DEA Federal Register Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, Virginia 22301; and must be filed no later than July 1, 2005.

Dated: April 25, 2005.

William J. Walker,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 05–8694 Filed 4–29–05; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 5, 2005, Roche Diagnostics Operations Inc., Attn: Regulatory Compliance, 9115 Hague Road, Indianapolis, Indiana 46250, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in Schedules I and II:

Drug	Schedule
Lysergic Acid Diethylamide (7315)	I
Tetrahydrocannabinol (7370)	I
Alphamethadol (9605)	I
Phencyclidine (7471)	II
Benzoylecgonine (9180)	II
Methadone (9250)	II
Morphine (9300)	II

The company plans to manufacture small quantities of the listed controlled substances for use in diagnostic products.

Any other such applicant and any person who is presently registered with DEA to manufacture such a substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative, Liaison and Policy Section (ODL); or any being sent via express mail should be sent to DEA Headquarters, Attention: DEA Federal Register Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, Virginia 22301; and must be filed no later than July 1, 2005.

Dated: April 25, 2005.

William J. Walker,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 05–8693 Filed 4–29–05; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Voluntary Appeal File (VAF) Brochure.

The Department of Justice (DOJ), Federal Bureau of Investigation (FBI) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 69, Number 218, page 65455 on November 12, 2004, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until June 1, 2005. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this Information Collection

(1) *Type of Information Collection:* New data collection.

(2) *Title of the Form/Collection:* Voluntary Appeal File (VAF) Brochure.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: None. Sponsor: Criminal Justice Information Services (CJIS) Division of Federal Bureau of Investigation (FBI), Department of Justice (DOJ).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Any individual requesting entry into the Federal Bureau of Investigation (FBI) National Instant Criminal Background Check System (NICS) Voluntary Appeal File (VAF) Brochure. Under the FBI NICS final rule, 28 CFR Part 25.9(b)(1), (2), (3), the FBI NICS Section must destroy all identifying information on allowed transactions before the start of the next FBI NICS operational day. If a potential purchaser is delayed or denied a firearm, then successfully appeals the decision, the FBI NICS Section would not be able to retain the record of the appeal. The purchaser would be denied continually if the record can not be updated, and would be required to appeal the decision and resubmit documentation/information to overturn the appeal on subsequent purchases. The proposed change in the regulation would permit lawful purchasers to request that the FBI NICS Section maintain documentation/information on them in a VAF. The VAF will be maintained by the FBI NICS for the purpose of preventing the future lengthy delays or denials of a firearm transfer.

The application contained on the VAF brochure will be the means for an individual to request entry into the VAF. This form will be made available to the public through Federal Firearm Licensees (FFLs), state points of contact for firearm checks, and on the FBI NICS Web site at the internet.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* The number of persons requesting entry into the VAF is estimated to be 12,500 individuals. It takes an average of five minutes to read and complete all areas of the application, an estimated two hours for the process of fingerprinting including travel, and 25 minutes to mail the form for a total of two and a half hours estimated burden to the respondent.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The time it takes each individual to complete the process is 2.5 hours. The total public burden hours is 31,250 total burden hours.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–8646 Filed 4–29–05; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day notice of information collection under review: Annual Parole Survey, Annual Probation Survey, and Annual Probation Survey (Short Form).

The Department of Justice (DOJ), Office of Justice Programs (OJP), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until July 1, 2005. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Lawrence Greenfeld, Director, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Annual Parole Survey, Annual Probation Survey, and Annual Probation Survey (Short Form).

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Numbers: CJ–7, CJ–8, and CJ–8A. Corrections Statistics, Bureau of Justice Statistics, Office of Justice Programs.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: State, local or tribal governments: State Departments of Corrections or State probation and Parole authority. City and county courts and probation offices for which a central reporting authority does not exist. Other: Federal Government: The Federal Bureau of Prisons.

Brief Abstract: For the CJ–7 form, 54 central reporters (two State jurisdictions in California and one each from the remaining States, the District of Columbia, the Federal Bureau of Prisons, and one local authority) responsible for keeping records on parolees will be asked to provide information for the following categories:

(a) As of January 1, 2005 and December 31, 2005, the number of adult parolees under their jurisdiction;

(b) The number of adults entering parole during 2005 through discretionary release from prison,

mandatory release from prison, or reinstatement of parole;

(c) The number of adults released from parole during 2005 through successful completion, incarceration, absconder status, transfer to another parole jurisdiction, or death;

(d) Whether adult parolees supervised out of State have been included in the total number of parolees on December 31, 2005, and the number of adult parolees supervised out of State;

(e) As of December 31, 2005, the number of male and female parolees under their jurisdiction;

(f) As of December 31, 2005, the number of white (not of Hispanic origin), black or African American (not of Hispanic origin), Hispanic or Latino, American Indian or Alaska Native, Asian, Native Hawaiian or Pacific Islander, two or more races, or additional categories in their information systems;

(g) As of December 31, 2005, the number of adult parolees under their jurisdiction with a sentence of more than one year, or a year or less;

(h) As of December 31, 2005, the number of adult parolees who had as their most serious offense a violent, property, drug, or other offense;

(i) As of December 31, 2005, the number of adult parolees under their jurisdiction who were active, inactive, absconders, or supervised out of state;

(j) As of December 31, 2005, the number of adult parolees under their jurisdiction who were supervised following a discretionary release, a mandatory release, a special conditional release, or other type of release from prison;

(k) Whether the parole authority operated an intensive supervision program, a program involving electronic monitoring, or had any parolees enrolled in a program that approximates a bootcamp, and the number of adult parolees in each of the programs as of December 31, 2005; and

(l) Of the adult parolees who died between January 1 and December 31, 2005, the number of deaths, by gender and by race.

For the CJ–8 form, 352 reporters (one from each State, the District of Columbia, and the Federal Bureau of Prisons; and 300 from local authorities) responsible for keeping records on probations will be asked to provide information for the following categories:

(a) As of January 1, 2005 and December 31, 2005, the number of adult probationers under their jurisdiction;

(b) The number of adults entering probation during 2005 with and without a sentence to incarceration;

(c) The number of adults discharged from probation during 2005 through successful completion, incarceration, absconder status, a detainer or warrant, transfer to another parole jurisdiction, and death;

(d) Whether adult probationers supervised out of State have been included in the total number of probationers on December 31, 2005, and the number of adult probationers supervised out of State;

(e) As of December 31, 2005, the number of male and female probationers under their jurisdiction;

(f) As of December 31, 2002, the number of white (not of Hispanic origin), black or African American (not of Hispanic origin), Hispanic or Latino, American Indian or Alaska Native, Asian, Native Hawaiian or Pacific Islander, two or more races, or additional categories in their information system;

(g) As of December 31, 2005, the number of adult probationers under their jurisdiction who were sentenced for a felony, misdemeanor, or other offense type;

(h) As of December 31, 2005, the number of adult probationers who had as their most serious offense a sexual assault, domestic violence offense, other assault, burglary, larceny or theft, fraud, drug law violation, driving while intoxicated or under the influence of alcohol or drugs, or other traffic offense.

(i) Whether the probation authority supervised any probationers held in local jails, prisons, community-based correctional facilities, or an ICE holding facility, and the number of adult probationers held in each on December 31, 2005;

(j) As of December 31, 2005, the number of adult probationers under their jurisdiction who had entered probation with a direct sentence to probation, a split sentence to probation, a suspended sentence to incarceration, or a suspended imposition of sentence;

(k) As of December 31, 2005, the number of adult probationers under their jurisdiction who were active, in a residential or other treatment program, inactive, absconders, those on warrant status, or supervised out of state;

(l) Whether the probation authority supervised any ''paper-only'' probationers who have never been under active supervision, and the number of those ''paper-only'' adult probationers on December 31, 2005;

(m) Whether the probation authority operated an intensive supervision program, a program involving electronic monitoring, or had any probationers enrolled in a program that approximates a bootcamp, and the number of adult probationers in each of the programs as of December 31, 2005; and

(n) Whether the probation authority contracted out to a private agency for supervision, and the number of probationers supervised by a private agency that were included in the total population on December 31, 2005.

For the CJ–8A form, 117 reporters (from local authorities) responsible for keeping records on probationers will be asked to provide information for the following categories:

(a) As of January 1, 2005 and December 31, 2005, the number of adult probationers under their jurisdiction;

(b) The number of adults entering probation and discharged from probation during 2005;

(c) As of December 31, 2005, the number of male and female probationers under their jurisdiction;

(d) As of December 31, 2005, the number of adult probationers under their jurisdiction who were sentenced for a felony, misdemeanor, or other offense type.

(e) Whether the probation authority supervised any ''paper-only'' probationers who have never been under active supervision, and the number of those ''paper-only'' adult probationers on December 31, 2005; and

(f) Whether the probation authority supervised any probationers held in a community-based correctional facility, and the number of adult probationers held in each on December 31, 2005.

The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that there will be 523 respondents, each taking 1.17 hours to respond.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 668 annual burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: April 26, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–8645 Filed 4–29–05; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,318 and TA–W–56,318A]

Automatic Lathe Cutterhead, High Point, NC; Industrial Supply Co., Inc., Subsidiary of Automatic Lathe Cutterhead, Hickory, NC; Notice of Negative Determination Regarding Application for Reconsideration

By application of March 11, 2005 a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA). The denial notice was signed on February 18, 2005 and published in the **Federal Register** on March 9, 2005 (70 FR 11703).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed on behalf of workers at Automatic Lathe Cutterhead, High Point, North Carolina (TA–W–56,318) engaged in cutting bandsaw blades and Industrial Supply CO., Inc., Subsidiary of Automatic Lathe Cutterhead, Hickory, North Carolina (TA–W–56,318A) engaged in direct support of the production at Automatic Lathe Cutterhead was denied because the ''contributed importantly'' group eligibility requirement of Section 222 of the Trade Act of 1974 was not met. The ''contributed importantly'' test is generally demonstrated through a survey of the workers' firm's customers. The survey revealed no increase in imports of bandsaw blades during the relevant period. The subject firm did not import bandsaw blades in the relevant period nor did it shift production to a foreign country.

In the request for reconsideration, the petitioner inquires about the reasoning behind workers of the subject firms being tied to the production of bandsaw blades and refers to the furniture industry as a more appropriate activity for the workers of the subject firm.

The original investigation did reveal that both locations, Automotive Lathe Cutterhead in High Point, North Carolina and Industrial Supply Company in Hickory, North Carolina act as resale distributors and workers of these facilities are strictly engaged in warehousing for suppliers that manufacture furniture. However, warehousing is not considered production of an article within the meaning of Section 222 of the Trade Act. Therefore, the subject group of workers can not be eligible for TAA on its own, based on the fact, that workers do not produce an article. However, it was also determined that cutting and welding of bandsaw blades takes place at the Automatic Lathe Cutterhead Company, High Point, North Carolina facility. Because it is the only production activity occurring at the subject firm, the investigation was conducted on bandsaw blades as a relevant product manufactured by the workers of the subject firm.

The petitioner alleges that the subject firm lost its business due to the conditions in the furniture industry and its major customers importing furniture and shifting their production abroad.

In order to establish import impact, the Department must consider imports that are like or directly competitive with those produced at the subject firm. The Department conducted a survey of the subject firm's major declining customers regarding their purchases of bandsaw blades. The survey revealed that the declining customers did not import bandsaw blades during the relevant period.

The reconsideration revealed that the original petitions for Automatic Lathe Cutterhead, High Point, North Carolina and Industrial Supply Co., Inc., Hickory, North Carolina were filed as secondary affected firms. Because this fact was not addressed during the original investigation, an investigation was conducted to determine whether workers of the subject firms are eligible for trade adjustment assistance (TAA) based on the secondary upstream supplier impact.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance on the basis of the workers' firm being a secondary upstream supplier, the following group eligibility requirements under Section 222(b) must be met:

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In this case, however, the subject firms do not act as upstream suppliers, because bandsaw blades do not form a component part of the furniture. Thus the subject firm workers are not eligible under secondary impact.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 19th day of April, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–2077 Filed 4–29–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,372]

Dystar LP, Charlotte, North Carolina; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade

Adjustment Assistance for workers at DyStar LP, Charlotte, North Carolina. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–56,372; DyStar LP, Charlotte, North Carolina (April 20, 2005)

Signed at Washington, DC this 21st day of April 2005.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E5–2084 Filed 4–29–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,873]

Federal-Mogul; Blacksburg, VA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on April 4, 2005 in response to a petition filed on behalf of workers at Federal-Mogul, Blacksburg, Virginia.

This is a duplicate petition that was initiated in error. The original petition is the subject of an ongoing investigation under petition number TA–W–56,861, initiated on March 30, 2005. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 6th day of April, 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–2090 Filed 4–29–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,152 and TA–W–56,152A]

Flowline Division, of Markovitz Enterprises, Inc., New Castle, PA; Flowline Division, of Markovitz Enterprises, Inc., Whiteville, NC; Notice of Determinations Regarding Application for Reconsideration

By application of February 24, 2005 a company official requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firms to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA). The denial notice was signed on January 13, 2005 and published in the **Federal Register** on February 7, 2005 (70 FR 6459).

The TAA petition, filed on behalf of workers at Flowline Division of Markovitz Enterprises, Inc., New Castle, Pennsylvania (TA–W–56,152) and Flowline Division of Markovitz Enterprises, Inc., Whiteville, North Carolina (TA–W–56,152A) engaged in production of stainless steel butt-weld fittings was denied because the criteria (a)(2)(A)(I.B) and (a)(2)(B)(II.B) Section 222 of the Trade Act of 1974 were not met. Firm's sales and production for stainless steel butt-weld fittings increased from January through November of 2004 when compared to the same period in 2003. The firm did not shift production of stainless steel butt-weld fittings to a foreign country during the relevant period.

In the request for reconsideration, the petitioner requested an additional analysis of the subject firm's sales, production and employment during the relevant time period.

The Department requested additional information regarding the dates of the separations of the workers of the subject firm in order to establish the relevant base period for sales and production. The review of the obtained information established the fact that the majority of the layoffs at Flowline Division of Markovitz Enterprises, Inc., New Castle, Pennsylvania occurred in the first quarter of 2004. Consequently, sales, production and imports for 2002 and 2003 are relevant in this case. It was further revealed that sales and production declined significantly from 2002 to 2003. Furthermore, the investigation revealed that the subject firm increased its imports of stainless steel butt-weld fittings during the relevant time period.

The reconsideration established that only one worker was separated from Flowline Division of Markovitz Enterprises, Inc., Whiteville, North Carolina (TA–W–56,152A) during the relevant time period. This fact was not documented during the original investigation based on the information provided by the company official.

When assessing eligibility for TAA, the Department makes its determinations based on the requirements as outlined in Section 222 of the Trade Act. The investigation revealed that Flowline Division of Markovitz Enterprises, Inc., Whiteville, North Carolina did not separate or threaten to separate a significant number or proportion of workers as required by Section 222 of the Trade Act of 1974. Significant number or proportion of the workers in a firm or appropriate subdivision thereof, means that at least three workers with a workforce of fewer than 50 workers, five percent of the workers with a workforce over 50 workers, or fifty workers. As the total separated worker number was one during the relevant period, workers of Flowline Division of Markovitz Enterprises, Inc., Whiteville, North Carolina do not meet the group eligibility requirements for trade adjustment assistance.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the worker group must be certified eligible to apply for trade adjustment assistance (TAA), and the group eligibility requirements of Section 246 of the Trade Act must be met.

Since the workers of Flowline Division of Markovitz Enterprises, Inc., Whiteville, North Carolina (TA–W–56,152A) are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

The Department further determined that the requirements of Section 246 have been met for workers of Flowline Division of Markovitz Enterprises, Inc., New Castle, Pennsylvania (TA–W–56,152). A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the facts obtained in the investigation, I determine that increases of imports of articles like or directly competitive with articles produced by Flowline Division of Markovitz Enterprises, Inc., New Castle, Pennsylvania (TA-W–56,152) contributed importantly to the total or partial separation of workers and to the decline in sales or production at that firm or subdivision. In accordance with the provisions of the Act, I make the following certification:

''All workers of the Flowline Division of Markovitz Enterprises, Inc., New Castle, Pennsylvania (TA–W–56,152), who became totally or partially separated from employment on or after December 2, 2003

through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

and;

''I further determine that all workers at Flowline Division of Markovitz Enterprises, Inc., Whiteville, North Carolina (TA–W–56,152A) are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974 and are denied eligibility to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed at Washington, DC, this 14th day of April, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–2075 Filed 4–29–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,515]

Interstate Iron Works, Whitehouse, NJ; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 7, 2005 in response to a petition filed by the State of New Jersey Trade Act Coordinator on behalf of workers at Interstate Iron Works, Whitehouse, New Jersey.

The Department has been unable to locate company officials of the subject firm or to obtain the information necessary to reach a determination on worker group eligibility. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 7th day of April, 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–2085 Filed 4–29–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment And Training Administration

[TA–W–56,637 and TA–W–56,637A]

Oneida Ltd., Sherrill, NY, Oneida Ltd., Oneida, NY; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 25, 2005 in response to a worker petition filed by a company official on behalf of workers at Oneida Ltd., Sherrill, New York (TA–W–56,637) and Oneida Ltd. Oneida, New York (TA–W–56,637A).

The petitioner has requested that the petition be withdrawn. Consequently, further investigation would serve no purpose and the investigation has been terminated.

Signed at Washington, DC this 4th day of April, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–2089 Filed 4–29–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, (19 U.S.C. 2273), the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the periods of March 2005.

In order for an affirmative determination to be made and a certification of eligibility to apply for directly-impacted (primary) worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign county of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance as an adversely affected secondary group to be issued, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20

percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B) (No shift in production to a foreign country) have not been met.

TA–W–56,605; Pennsylvania Veneer Corp., Clearfield, PA
TA–W–56,560; Interstate Tool and Die Co., Madison Heights, MI
TA–W–56,639; Prism Technology and Assemblies, LLC, a div. of Mariah Industries and Carlisle Engineered Products, Meadville, PA
TA–W–56,567; Kellwood Comp any, Kellwood Midwest Regional Operations, Product Development Div., Rutherford, TN
TA–W–56,570; Penn Mould Industries, Inc., Washington, PA
TA–W–56,601; Fort Howard Steel, Green Bay, WI
TA–W–56,369; Tower Automotive Milwaukee, LLC, Milwaukee Business Unit, a div. of Tower Automotive, Inc., Milwaukee, WI
TA–W–56,398; Libbey Glass, Inc., Walnut, CA
TA–W–56,401; Neat Feet Hosiery, Inc., Stoneville, NC
TA–W–56,464; IMERYS, Dry Branch Operation, Dry Branch, GA
TA–W–56,437; ASSEM-Tech, Inc., Including leased workers of Employment Solutions, Grand Haven, MI
TA–W–56,592; North East Graphics, Waymart, PA
TA–W–56,539 & A; SCA Tissue North America LLC, Menasha, WI and Neenah, WI
TA–W–56,551; National Oilwell, LLP, Hydralift Amclyde, Inc., St. Paul, MN
TA–W–56,552; Arctic Glacier, Inc., formerly Northern Pure Ice Company, Grayling, MI
TA–W–56,442; Laurent Leather, Inc., Newton, NC
TA–W–56,688; Lands' End, subsidiary of Sears Roebuck and Company, Business Outfitters CAD Operations, Dodgeville, WI
TA–W–56,739; Flexaust Appliance, Inc., El Paso, TX
TA–W–56,610; Silgan Containers Manufacturing Corp., MCF–451 Div., Oconomowoc, WI
TA–W–56,516; Weil-McLain, subsidiary of SPX Corp., Michigan City, IN
TA–W–56,479; Hoffmaster, subsidiary of Solo Cup Co., Green Bay, WI
TA–W–56,743; Randstad North America, Gardena, CA
TA–W–56,599; Dorby Frocks, Ltd/ Kellwood, New York, NY

The investigation revealed that criterion (a)(2)(A)(I.A) and (a)(2)(B)(II.A) (no employment decline) has not been met.

TA–W–56,823; The Computer Co-Op, Inc., South Williamsport, PA
TA–W–56,670; Carolina Mills, Inc., Sales Department, Maiden, NC
TA–W–56,537; Polarfab, Bloomington, MN
TA–W–56,590; Maple Mountain Associates, Milford, NH
TA–W–56,550; Cyprus Semiconductor, Inc., including leased workers of Onpoint Staffing, Bloomington, MN
TA–W–56,701; Twigs & Ivy Boutique, Potosi, MO
TA–W–56,593; Geneva Manufacturing Corporation, Geneva, IN
TA–W–56,420 & A; Tyco Electronics, Communications, Computers and Consumer Electronics Div., East Berlin, PA and Carlisle, PA

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–56,682; Global travel Financial Operations, a div. of American Express Co., Phoenix, AZ
TA–W–56,508; Cannon County Knitting Mills, Smithville, TN
TA–W–56,744; ACS Commercial Solutions, Inc., a div. of Affiliated Computer Services, Inc., Florence, SC
TA–W–56.563; Brocade Communications Systems, Inc., San Jose, CA
TA–W–56,618; Staubli Corp., Textile Div., Duncan, SC
TA–W–56,689; Jones Apparel Group, North Carolina Distribution Div., Rural Hall, NC
TA–W–56,544; Rockford Health Physicians, Central Business Office, including on-site leased workers of Furst Staffing, Rockford, IL
TA–W–56,561; Citicorp Credit Services, Inc., (USA), Middleburg Heights, OH
TA–W–56,591; Sun Microsystems, Inc., Restoration Services, Burlington, MA

The investigation revealed that criterion (a)(2)(A)(I.B) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B) (has shifted production to a county not under the free trade agreement with U.S.) have not been met.

TA–W–56,490; Equilon Enterprises LLC, d/b/a Shell Oil Products US, Bakersfield Refinery, Bakersfield, CA
TA–W–56,496; KBA North America, In., Web Press Div., including leased workers of Frank Electric Corp., York, PA

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of (a)(2)(A) (increased imports) of Section 222 have been met.

TA–W–56,596; Duro Textiles LLC, Duro Finishing, Print, and Duro II, a subsidiary of Patriarch Partners, Falls River, MA: January 24, 2005
TA–W–54,656; ICS Cutting Tools, Inc., Roc Edge Div., Casco, WI: February 14, 2004
TA–W–56,568; Cleyn & Tinker International, Inc., Malone, NY: February 7, 2004
TA–W–56,657; Vernay Laboratories, Inc., Yellow Springs, OH: March 11, 2005
TA–W–56,662; Olsonite Corp., Newnan, GA: February 17, 2004
TA–W–56,512; Pride Manufacturing Co LLC, Tampa, FL: January 19, 2004
TA–W–56,470; Unique Garment Manufacturing, Inc., Daly City, 2004
TA–W–56,619 & A,B,C; Springs Industries, Griffin Plant 5, including on-site leased workers from Defender Services, Inc., Griffin, GA, Griffin Plant 1, including on-site leased workers from Defender Services, Inc., Griffin, GA, Griffin Finishing, including on-site leased from Defender Services, Inc., Griffin, GA and Griffin Administrative Center, Griffin, GA: February 18, 2004
TA–W–56,642; Turtle Fur Company, Morrisville, VT: February 16, 2004
TA–W–56,676; Regent Manufacturing Co., San Francisco, CA: March 1, 2004
TA–W–56,647; Stillwater Forest Products, Kalispell, MT: February 23, 2004
TA–W–56,687; KL-Arrow, Inc., Asheboro, NC: March 2, 2004
TA–W–56,597; Fairey Finishing Plant, Inc., Durham, NC: February 7, 2004

TA–W–56,546; Westpoint Stevens, Scotland Plant, Wagram, NC: February 9, 2004
TA–W–56,650; Barnes Supply Co., Inc., T/A Barnes & Company, including leased workers at Ameristaff, Collinsville, VA: February 24, 2004
TA–W–56,646; Wheatland Tube Company, Warren Plant, Warren, OH: February 4, 2004
TA–W–56,691; Worldtex, Inc., Hickory, NC: March 7, 2004
TA–W–56,750; Finishing Touch Hosiery, Fyffe, AL: March 8, 2004
TA–W–56,672 & A; Golden Northwest Aluminum, Goldendale, WA and The Dalles, OR: March 1, 2004
TA–W–56,491; Newcor, Inc., Bay City Division, Bay City, MI: January 28, 2004
TA–W–56,654; ECC Corporation, Jefferson, MA: February 17, 2004
TA–W–56,778; Eagle Picher Automotive, Hillsdale Div., including on-site leased workers of Hamilton-Ryker, and Staffing Solutions, Manchester, TN: March 16, 2004
TA–W–56,410; The Amalgamated Sugar Co., LLC, Nyssa, OR: January 25, 2004
TA–W–56,758; Weyerhaeuser, Foster Plywood, Sweet Home, OR: March 11, 2004
TA–W–56,542; A.D. Harrington Company, d/b/a Temple Industries, Hot Springs, AR: January 28, 2004
TA–W–56,514; Ikka Technology, Inc., including leased workers at Randstandt Work Solutions and Willstaff Worldwide, Villa Rica, GA: January 25, 2004
TA–W–56,538; Prudential Overall Supply, Garment Manufacturing Plant, Cerritos, CA: January 28, 2004
TA–W–56,555; American Flange & Manufacturing Co., Inc., a Division of Greif, Inc., Carol Stream, IL: January 28, 2004
TA–W–56,471; Noffsinger Manufacturing Co., Inc., Hermiston-West Division, Hermiston, OR: February 1, 2004
TA–W–56,472; Armstrong Wood Products, Inc., Hartco Flooring Company, Parquet Department, Oneida, TN: February 1, 2004
TA–W–56,510; Shafer Electronics, Shafer, MN: February 3, 2004
TA–W–56,644; Truth Hardware, W. Hazleton, PA: March 12, 2005
TA–W–56,627; Codet Newport Corporation, Colebrook, NH: February 18, 2004
TA–W–56,227; Kraft Foods Global, Inc., Buena Park Manufacturing, Buena Park, CA: December 18, 2003
TA–W–56,436; Bauhaus U.S.A., Inc., Belmont Div., Belmont, MS: January 11, 2004
TA–W–56,710; Baltimore Laidlaw LLC, Baltimore, MD: December 3, 2003
TA–W–56,602; Jetter Knitting, Inc., Fort Payne, AL: February 16, 2004
TA–W–56,460; Ameriwood Industries, Wright City, MO: January 28, 2004
TA–W–56,438; Hi-Tech Engineering, d/b/a High-Tech Comact, a subsidiary of Comact, Inc., including leased workers of Staffmark, Hot Springs, AR: January 27, 2004
TA–W–56,685; Global Textile Robotics, LLC, Greenville, SC: March 1, 2004
TA–W–56,604; Toshiba America Consumer Products, LLC, a subsidiary of Toshiba, Inc., including on-site leased workers from Holland Employment, Lebanon, TN: February 17, 2004
TA–W–56,621; Triumph Engineered Solutions, Inc., a subsidiary of Triumph Group, Inc., Brookfield, WI: February 18, 2004

The following certifications have been issued. The requirements of (a)(2)(B) (shift in production) of Section 222 have been met.

TA–W–56,608; Eaton Corp., Specialty Controls Div., including leased workers of Adecco, Perry Personnel, Wise Personnel, Manpower, Aerotek, and Welsh and Associates, Three Rivers, MI: February 18, 2004
TA–W–56,579; Bulk Lift International, Inc., Carpentersville, IL: February 1, 2004
TA–W–56,562; Plasticsource, Inc., El Paso, TX: January 28, 2004
TA–W–56,614; White Knight Engineered Products, Inc., Childersburg, AL: February 7, 2004
TA–W–56,693; United Plywood Industries, including on-site leased workers from Ablest Staffing, Mocksville, NC: February 25, 2004
TA–W–56,711; Jacobs Chuck Manufacturing Co., including leased workers of Etcon Staffing Services, Clemson, SC: February 24, 2004
TA–W–56,583; Agilent Technologies, Manufacturing Test Business Unit, including leased workers at Benchmark Electronics, Inc., Loveland, CO: February 14, 2004
TA–W–56,584; Valeo Electrical Systems, Inc., Valeo Wipers
N.A. Division, Rochester, NY: January 23, 2005
TA–W–56,595; Gardall Safe Corp., Syracuse, NY: February 7, 2004
TA–W–56,703; Top Flight, Inc., Chattanooga, TN: March 4, 2004
TA–W–56,633; Syracuse China, Syracuse, NY: February 8, 2004
TA–W–56,566 & A; Porter Cable/Delta, subsidiary of Black and Decker, Refurbishment Center, including leased workers of Ranstad, Jackson, TN and Industrial Products (Power Tools) Division, including leased workers of Ranstad, Manpower and Personnel Placement, Jackson, TN: February 11, 2004
TA–W–56,620; Springs Industries, Hartwell Finishing, including on-site leased workers from Defender Services, Hartwell, GA: February 18, 2004
TA–W–56,752; Team Manufacturing, Inc., Rancho Dominguez, CA: March 9, 2004
TA–W–56,543; Evans Rule Company, Inc., a Div. of L.S. Starrett Co., Inc., including on-site temporary workers from Hammes Staffing Services and Extra Help Personnel Services, Charleston, SC: December 10, 2004
TA–W–56,717; Victor Insulators, Inc., Victor, NY: February 23, 2004
TA–W–56,709 & A & B; American Identity including on-site leased workers of Adecco, Marcus, IA, Hawarden, IA and Orange City, IA: April 9, 2005
TA–W–56,645; Zodiac American Pools, Inc., including leased workers of Manpower, Inc., Midway, GA: February 2, 2004
TA–W–56,684; Roaring & Cumberland Manufacturing, Inc., including on-site leased workers from Staffing Solutions, Sparta, TN: March 1, 2004
TA–W–56,521; Lear Corporation, Seating Systems Division, Grand Rapids, MI: February 7, 2004
TA–W–56,612; A.O. Smith Company, Inc., Electrical Products Co., McMinnville, TN: February 12, 2005
TA–W–56,652; Vishay Sprague Sanford, Inc., including leased workers of Manpower Sanford and Manpower Technical, Sanford, ME: March 26, 2005
TA–W–56,611; Global Accessories, Inc., Phoenix, AZ: February 17, 2004
TA–W–56,632; Celestica, Americas EMS Mt. Pleasant Div., including on-site leased workers of Adecco, Mt. Pleasant, IA: February 22, 2004
TA–W–56,594; DuPont Photomasks, Inc., Kokomo Site, Kokomo, IN: February 16, 2004
TA–W–56,626; Tee Jays Manufacturing Co., Inc., Plants #3, 6, 10 and 15, Florence, AL: February 21, 2004
TA–W–56,545; Chase Staffing Services and Availstaff Staffing Services, Inc., workers at Hibino Corporation, Gainesville, GA: February 5, 2004
TA–W–56,576; Danaher Tool Group, Springfield, MA: February 14, 2004
TA–W–56,664; Osram Sylvania, Precision Materials and Components, including on-site leased workers of Superior

Technical Resources and Kelly Services, Bangor, ME: April 3, 2005

TA–W–56,636; M.J. Soffe Company, a Division of Delta Apparel, Bladenboro, NC: February 9, 2004

TA–W–56,771; Kern Manufacturing, a subsidiary of Leading Lady, Flora, IL: March 14, 2004

TA–W–56,578; GE Security, including on-site leased workers of Express, Total One, and Pioneer, Arden Hills, MN: February 14, 2004

TA–W–56,708; AVX Corporation, subsidiary of Kyocera Corp., Raleigh, NC: March 8, 2004

TA–W–56,694; Colortronic North America, Inc., Runnemede, NJ: March 4, 2004

The following certifications have been issued. The requirement of upstream supplier to a trade certified primary firm has been met.

TA–W–56,028; Munters Corporation, including leased workers of Remedy Intelligent Staffing, Phoenix, AZ: November 12, 2003

Negative Determinations for Alternative Trade Adjustment Assistance

In order for the Division of Trade Adjustment Assistance to issued a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

In the following cases, it has been determined that the requirements of Section 246(a)(3)(ii) have not been met for the reasons specified.

The Department as determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

TA–W–54,313; Pinnacle Frames and Accents, Inc., Wood Div., Formerly Known As Tandycrafts, Inc., Piggott, AR

TA–W–53,944; Universal Lighting Technologies, Formerly Magnetek, Including Leased Workers of Ranstad, Madison, AL

TA–W–56,595; Gardall Safe Corp., Syracuse, NY

TA–W–56,604; Toshiba America Consumer Products, LLC, a subsidiary of Toshiba America, Inc., including on-site leased workers from Holland Employment, Lebanon, TN

TA–W–56,621; Triumph Engineered Solutions, Inc., a subsidiary of Triumph Group, Inc., Brookfield, WI

TA–W–56,460; Ameriwood Industries, Wright City, MO

TA–W–56,703; Top Flight, Inc., Chattanooga, TN

TA–W–56,578; GE Security, including on-site leased workers of Express, Total One, and Pioneer, Arden Hills, MN

TA–W–56,438; Hi-Tech Engineering, d/b/a High-Tech Comact, a subsidiary of Comact, Inc., including leased workers of Staffmark, Hot Springs, AR

TA–W–56,633; Syracuse China, Syracuse, NY

TA–W–56,685; Global Textile Robotics, LLC, Greenville, SC

TA–W–56,710; Baltimore Laidlaw LLC, Baltimore, MD

TA–W–56,708; AVX Corp., subsidiary of Kyocera Corp., Raleigh, NC

The Department as determined that criterion (1) of Section 246 has not been met. Workers at the firm are 50 years of age or older.

TA–W–56,694; Colortronic North America, Inc., Runnemede, NJ

TA–W–56,602; Jetter Knitting, Inc., Fort Payne, AL

Since the workers are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

TA–W–56,591; Sun Microsystems, Inc., Restoration Services, Burlington, MA

TA–W–56,561; Citicorp Credit Services, Inc. (USA), Middleburg Heights, OH

TA–W–56,544; Rockford Health Physicians, Central Business Office, including on-site leased workers of Furst Staffing, Rockford, IL

TA–W–56,689; Jones Apparel Group, North Carolina Distribution Div., Rural Hall, NC

TA–W–56,618; Staubli Corp., Textile Div., Duncan, SC

TA–W–56,563; Brocade Communications Systems, Inc., San Jose, CA

TA–W–56,508; Cannon Country Knitting Mills, Smithville, TN

TA–W–56,496; KBA North America, Inc., Web Press Div., Including Leased Workers of Frank Electric Corp., York, PA

TA–W–56,593; Geneva Manufacturing Corp., Geneva, IN

TA–W–56,701; Twigs & Ivy Boutique, Potosi, MO

TA–W–56,550; Cyprus Semiconductor, Inc., Including Leased Workers of Onpoint Staffing, Bloomington, MN

TA–W–56,590; Maple Mountain Associates, Milford, NH

TA–W–56,537; Polarfab, Bloomington, MN., Plano, TX

TA–W–56,670; Carolina Mills, Inc., Sales Department, Maiden, NC

TA–W–56,599; Dorby Frocks, Ltd/ Kellwood, New York, NY

TA–W–56,743; Randstad North Carolina, Gardena, CA

TA–W–56,479; Hoffmaster, subsidiary of Solo Cup Company, Green Bay, WI

TA–W–56,516; Weil-McLain, subsidiary of SPX Corp., Michigan City, IN

TA–W–56,739; Flexaust Appliance, Inc., El Paso, TX

TA–W–56,610; Silgan Containers Manufacturing Corp., MCF–451 Div., Oconomowoc, WI

TA–W–56,688; Lands' End, subsidiary of Sears Roebuck and Company, Business Outfitters CAD Operations, Dodgeville, WI

TA–W–56,441; Laurent Leather, Inc., Newton, NC

TA–W–56,552; Arctic Glacier, Inc., formerly Northern Pure Ice Co., Grayling, MI

TA–W–56,570; Penn Mould Industries, Inc., Washington, PA

TA–W–56,601; Fort Howard Steel, Green Bay, WI

TA–W–56,369; Tower Automotive Milwaukee, LLC, Milwaukee Business Unit, a div. of Tower Automotive, Inc., Milwaukee, WI

TA–W–56,369; Tower Automotive Milwaukee, LLC, Milwaukee Business Unit, a div. of Tower Automotive, Inc., Milwaukee, WI

TA–W–56,398; Libbey Glass, Inc., Walnut, CA

TA–W–56,401; Neat Feet Hosiery, Inc., Stoneville, NC

TA–W–56,464; IMERYS, Dry Branch Operation, Dry Branch, GA

TA–W–56,437; ASSEM-Tech, Inc., Including Leased Workers of Employment Solutions, Grand Haven, MI

TA–W–56,592; North East Graphics, Waymart, PA

TA–W–56,539 & A; SCA Tissue North America LLC, Menasha, WI and Neenah, WI

TA–W–56,551; National Oilwell, LLP, Hydralift Amclyde, Inc., St. Paul, MN

TA–W–56,420 & A; Tyco Electronics, Communications, Computers and Consumer Electronics Div., East Berlin, PA and Carlisle, PA

Affirmative Determinations for Alternative Trade Adjustment Assistance

In order for the Division of Trade Adjustment Assistance to issued a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determinations.

In the following cases, it has been determined that the requirements of Section 246(a)(3)(ii) have been met.

I. Whether a significant number of workers in the workers' firm are 50 years of age or older.

II. Whether the workers in the workers' firm possess skills that are not easily transferable.

III. The competitive conditions within the workers' industry (*i.e.*, conditions within the industry are adverse).

TA–W–56,566 & A; Porter Cable/Delta, subsidiary of Black and Decker, Refurbishment Center, including leased workers of Ranstad, Jackson, TN and Industrial Products (Power Tools) Div., including leased workers of Ranstad, Manpower and Personnel Placement, Jackson, TN: February 11, 2004

TA–W–56,620; Springs Industries, Hartwell Finishing, including on-site leased workers from Defender Services, Hartwell, GA: February 18, 2004

TA–W–56,543; Evans Rule Company, Inc., a Div. of L.S. Starrett Co., Inc., including on-site temporary workers from Hammes Staffing Services and Extra Help Personnel Services, Charleston, SC: December 10, 2004

TA–W–56,771; Kern Manufacturing, a subsidiary of Leading Lady, Flora, IL: March 14, 2004

TA–W–56,752; Team Manufacturing, Inc., Rancho Dominguez, CA: March 9, 2004

TA–W–56,717; Victor Insulators, Inc., Victor, NY: February 23, 2004

TA–W–56,709 & A,B; American Identity, including on-site leased workers of Adecco, Marcus, IA, Hawarden, IA and Orange City, IA: April 9, 2005

TA–W–56,645; Zodiac American Pools, Inc., including leased workers of Manpower, Inc., Midway, GA: February 2, 2004

TA–W–56,684; Roaring & Cumberland Manufacturing, Inc., including on-site leased workers from Staffing Solutions, Sparta, TN: March 1, 2004

TA–W–56,521; Lear Corp., Seating Systems Division, Grand Rapids, MI: February 7, 2004

TA–W–56,612; A.O. Smith Company, Inc., Electrical Products Co., McMinnville, TN: February 12, 2005

TA–W–56,652; Vishay Sprague Sanford, Inc., including leased workers of Manpower Sanford and Manpower Technical, Sanford, ME: March 26, 2005

TA–W–56,611; Global Accessories, Inc., Phoenix, AZ: February 17, 2004

TA–W–56,632; Celestica, Americas EMS Mt. Pleasant Div., including on-site leased workers of Adecco, Mt. Pleasant, IA: February 22, 2004

TA–W–56,594; DuPont Photomasks, Inc., Kokomo Site, Kokomo, IN: February 16, 2004

TA–W–56,626; Tee Jays Manufacturing Co., Inc., Plants #3, 6, 10 and 15, Florence, AL: February 21, 2044

TA–W–56,545; Chase Staffing Services and Availstaff Staffing Services, Inc., working at Hibino Corporation, Gainesville, GA: February 5, 2004

TA–W–56,576; Danaher Tool Group, Springfield, MA: February 14, 2004

TA–W–56,664; Osram Sylvania, Precision Materials and Components, including on-site leased workers of Superior Technical Resources and Kelly Services, Bangor, ME: April 3, 2005

TA–W–56,636; M.J. Soffe Co., a Div. of Delta Apparel, Bladenboro, NC: February 9, 2004

TA–W–56,619 &A,B,C; Springs Industries, Griffin Plant 5, including leased workers from Defender Services, Inc., Griffin, GA, Griffin Plant 1, including on-site leased workers from Defender Services, Inc., Griffin, GA, Griffin Finishing, including on-site leased workers from Defender Services, Inc., Griffin, GA, and Griffin Administrative Center, Griffin, GA: February 18, 2004

TA–W–56,642; Turtle Fur Company, Morrisville, VT: February 16, 2004

TA–W–56,676; Regent Manufacturing Co., San Francisco, CA: March 1, 2004

TA–W–56,647; Stillwater Forest Products, Kalispell, MT: February 23, 2004

TA–W–56,687; KL-Arrow, Inc., Asheboro, NC: March 2, 2004

TA–W–56,597; Fairey Finishing Plant, Inc., Durham, NC: February 7, 2004

TA–W–56,546; Westpoint Stevens, Scotland Plant, Wagram, NC: February 9, 2004

TA–W–56,650; Barnes Supply Co., Inc., T/A Barnes & Company, including leased workers at Ameristaff, Collinsville, VA: February 24, 2004

TA–W–56,646; Wheatland Tube Company, Warren Plant, Warren, OH: February 4, 2004

TA–W–56,691; Worldtex, Inc., Hickory, NC: March 7, 2004

TA–W–56,750; Finishing Touch Hosiery, Fyffe, AL: March 8, 2004

TA–W–56,672 & A; Golden Northwest Aluminum, Goldendale, WA and The Dalles, OR: March 1, 2004

TA–W–56,491; Newcor, Inc., Bay City Division, Bay City, MI: January 28, 2004

TA–W–56,654; ECC Corp., Jefferson, MA: February 17, 2004

TA–W–56,778; Eagle Picher Automotive, Hillsdale Div., including on-site leased workers of Hamilton-Ryker and Staffing Solutions, Manchester, TN: March 16, 2004

TA–W–56,410; The Amalgamated Sugar Co., LLC, Nyssa, OR: January 25, 2004

TA–W–56,758; Weyerhaeuser, Forster Plywood, Sweet Home, OR: March 11, 2004

TA–W–56,542; A.D. Harrington Company, d/b/a Temple Industries, Hot Springs, AR: January 28, 2004

TA–W–56,514; Ikka Technology, Inc., including leased workers at Randstadt Work Solutions and Willstaff Worldwide, Villa Rica, GA: January 25, 2004

TA–W–56,538; Prudential Overall Supply, Garment Manufacturing Plant, Cerritos, CA: January 28, 2004

TA–W–56,555; American Flange & Manufacturing Co., Inc., a Div. of Greif, Inc., Carol Stream, IL: January 28, 2004

TA–W–56,471; Noffsinger Manufacturing Co., Inc., Hermiston-West Div., Hermiston, OR: February 1, 2004

TA–W–56,472; Armstrong Wood Products, Inc., Hartco Flooring Co., Parquet Department, Oneida, TN: February 1, 2004

TA–W–56,510; Shafer Electronics, Shafer, MN: February 3, 2004

TA–W–56,644; Truth Hardware, W. Hazleton, PA: March 12, 2005

TA–W–56,627; Codet Newport Corp., Colebrook, NH: February 18, 2004

TA–W–56,227; Kraft Foods Global, Inc., Buena Park Manufacturing, Buena Park, CA: December 18, 2003

TA–W–56,436; Bauhaus U.S.A., Inc., Belmont Div., Belmont, MS: January 11, 2004

TA–W–53,526; Royal Home Fashions, Inc., Mebane Div., Mebane, NC: October 31, 2002

TA–W–54,575; Timken U.S. Corporation, Industrial Div., Formerly Known as Torrington/ Ingersoll Rand, Rutherfordton, NC: April 22, 2006

TA–W–53,573; Textron Fastening Systems, Samuelson Road Operations Div., a subsidiary of Textron, Inc., Rockford, IL: November 5, 2002

I hereby certify that the aforementioned determinations were issued during the month of March 2005. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours

or will be mailed to persons who write to the above address.

Dated: April 21, 2005.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E5–2091 Filed 4–29–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 12, 2005.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 12, 2005.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 20th day of April 2005.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted between 03/14/2005 and 04/01/2005]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
56,753	Spartech Polycom (USWA)	Conneaut, OH	03/14/2005	03/14/2005
56,754	SelKirk, LLC (Comp)	Coleman, TX	03/14/2005	03/10/2005
56,755	Hitachi Global Storage Technologies, Inc	San Jose, CA	03/14/2005	03/10/2005
56,756A	Ansonia Copper and Brass (State)	Waterbury, CT	03/14/2005	03/11/2005
56,756	Ansonia Copper and Brass (State)	Ansonia, CT	03/14/2005	03/11/2005
56,757	Celestica (Comp)	Raleigh, NC	03/14/2005	03/04/2005
56,758	Weyerhaeuser (Comp)	Sweet Home, OR	03/16/2005	03/11/2005
56,759	Felix Schoeller Technical Papers, Inc. (Comp)	Pulaski, NY	03/16/2005	03/15/2005
56,760	Tri-Cast, Inc. (State)	Spring Lake, MI	03/16/2005	02/18/2005
56,761	Westek Electronics, Inc. (Comp)	Santa Cruz, CA	03/16/2005	03/15/2005
56,762	Eldorado Cap Co., Inc. (UNITE)	Eldorado, IL	03/16/2005	03/15/2005
56,763	Quaker Fabric Corporation (State)	Fall River, MA	03/16/2005	03/09/2005
56,764	Whirley Industries (Wkrs)	Warren, PA	03/16/2005	02/25/2005
56,765	GKN Sinter Metals (UAW)	Gallipolis, OH	03/16/2005	03/14/2005
56,766	Challenger Contract Manufacturing (Comp)	Dandridge, TN	03/16/2005	03/10/2005
56,767	Celestica USA, Inc. (Comp)	Salem, NH	03/16/2005	03/14/2005
56,768	Magnivision (State)	Miramar, FL	03/16/2005	03/15/2005
56,769	Magnetic Specialty, Inc. (Comp)	Marietta, OH	03/16/2005	03/08/2005
56,770	Charleston Hosiery (Wkrs)	Fort Payne, AL	03/16/2005	03/07/2005
56,771	Kern Manufacturing (Wkrs)	Flora, IL	03/16/2005	03/14/2005
56,772	AT&T (NPW)	Schaumburg, IL	03/16/2005	02/26/2005
56,773	Ruskin (Wkrs)	Clayton, OH	03/16/2005	02/28/2005
56,774	Automatic Timing and Controls (Wkrs)	Lancaster, PA	03/16/2005	03/07/2005
56,775	D.R. Kenyon and Son, Inc. (Wkrs)	Bridgewater, NJ	03/16/2005	02/28/2005
56,776	Nokia (State)	Fort Worth, TX	03/21/2005	03/18/2005
56,777A	Boston Scientific (Comp)	San Diego, CA	03/21/2005	03/16/2005
56,777	Boston Scientific (Comp)	Murrieta, CA	03/21/2005	03/16/2005
56,778	Eagle Picher (Comp)	Manchester, TN	03/21/2005	03/16/2005
56,779	Aon Corp. (Wkrs)	Glenview, IL	03/21/2005	01/18/2005
56,780	ETEC, an Applied Materials Company (Wkrs)	Hillsboro, OR	03/22/2005	03/18/2005
56,781	AT and T (CWA)	Mesa, AZ	03/22/2005	02/25/2005
56,782	F.C. Meyer Packaging (Wkrs)	Lawrence, MA	03/22/2005	03/11/2005
56,783	Compupunch (Comp)	Los Angeles, CA	03/22/2005	03/10/2005
56,784	Progressive Service Die Company (IAM)	New Kingstown, PA	03/22/2005	03/16/2005
56,785	Michigan Sugar Company (State)	Carrollton, MI	03/22/2005	03/21/2005
56,786	Hardwood Products, LLC (State)	Guilford, ME	03/22/2005	03/17/2005
56,787	Video Display Corp. (Wkrs)	White Mills, PA	03/22/2005	03/14/2005
56,788	Pentair Water, Pool and Spa (Comp)	S. El Monte, CA	03/22/2005	03/21/2005
56,789	Jersey Mold Inc. (Comp)	Millville, NJ	03/22/2005	03/17/2005
56,790	Electronic Measuring Devices, Inc. (State)	Budd Lake, NJ	03/22/2005	03/21/2005
56,791	Vercuity Solutions, Inc. (NPW)	Gainesville, GA	03/22/2005	03/10/2005
56,792	Day Zimmermann Security Services (NPW)	Pottstown, PA	03/22/2005	03/11/2005
56,793	Council Cup Ind. (Comp)	Wapwallopen, PA	03/22/2005	03/14/2005
56,794	Intersil Communications, Inc. (Wkrs)	Palm Bay, FL	03/22/2005	03/07/2005

APPENDIX—Continued

[Petitions instituted between 03/14/2005 and 04/01/2005]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
56,795	Sanofi Aventis Pharmaceuticals (State)	Bridgewater, NJ	03/22/2005	03/17/2005
56,796	Tyco Electronics (Comp)	Sterling, IL	03/22/2005	03/17/2005
56,797	GE (Wkrs)	Fort Wayne, IN	03/22/2005	03/16/2005
56,798	Unicare (Wkrs)	Charlestown, MA	03/22/2005	03/06/2005
56,799	BASF Corporation (Comp)	Jamesburg, NJ	03/22/2005	03/15/2005
56,800	Alcoa, Inc. (Comp)	Badin, NC	03/22/2005	03/15/2005
56,801	ITT Industries (Comp)	Oscoda, MI	03/23/2005	03/21/2005
56,802	Molex, Inc. (Comp)	Gilford, NH	03/23/2005	03/23/2005
56,803	Silvered Electronic Mica Co., Inc. (Comp)	Willimantic, CT	03/23/2005	03/09/2005
56,804	T.S. Designs, Inc. (Comp)	Burlington, NC	03/23/2005	03/07/2005
56,805	Glen Raven Technical Fabrics (Comp)	Burnsville, NC	03/23/2005	03/03/2005
56,806	Carolina Glove (State)	N. Wilkesboro, NC	03/23/2005	03/23/2005
56,807	Lexington Home Brands (Comp)	Lexington, NC	03/23/2005	03/04/2005
56,808	Hydro Gate Acquisition, Inc. (Comp)	Commerce City, CO	03/24/2005	03/09/2005
56,809	Halex A Scott Fetzer Co. (Comp)	Hamilton, IN	03/24/2005	03/16/2005
56,810	Miracle Recreation Equipment Co. (Wkrs)	Advance, MO	03/24/2005	03/21/2005
56,811	Valdese Manufacturing Co. (State)	Valdese, NC	03/24/2005	03/17/2005
56,812	Vishay Transducers (State)	Covina, CA	03/24/2005	03/22/2005
56,813A	Bernhardt Furniture Company (Comp)	Lenoir, NC	03/24/2005	03/21/2005
56,813	Bernhardt Furniture Company (Comp)	Lenoir, NC	03/24/2005	03/21/2005
56,814	Omnimount Systems (Comp)	Phoenix, AZ	03/24/2005	03/22/2005
56,815	Hewlett Packard Co. (Comp)	Aguadilla, PR	03/24/2005	03/23/2005
56,816	Hewlett Packard (Comp)	Boise, ID	03/24/2005	03/22/2005
56,817	Drive Plus, Inc. (Wkrs)	Lock Haven, PA	03/24/2005	03/18/2005
56,818	Hadco Corp. (Comp)	Phoenix, AZ	03/24/2005	03/21/2005
56,819	Hudson RCI (Comp)	Temecula, CA	03/24/2005	03/15/2005
56,820	Manpower Temporary (State)	Tempe, AZ	03/24/2005	03/23/2005
56,821	Dott Industries, Inc. (USWA)	Deckerville, MI	03/24/2005	03/22/2005
56,822	Seal Glove Manufacturing, Inc. (Comp)	Millersburg, PA	03/24/2005	03/21/2005
56,823	Computer Co-op, Inc. (The) (Comp)	S. Williamsport, P	03/24/2005	03/23/2005
56,824	James Morton, Inc. (Wkrs)	Batavia, NY	03/24/2005	03/16/2005
56,825	Burns Wood Products, Inc. (Comp)	Granite Falls, NC	03/24/2005	03/23/2005
56,826	North American Communications (Wkrs)	Duncansville, PA	03/24/2005	03/16/2005
56,827	Sara Lee Corp. (Comp)	Winston-Salem, NC	03/24/2005	03/08/2005
56,828	Tarkett (USWA)	Florence, AL	03/24/2005	03/18/2005
56,829	3Com Corporation (Wkrs)	Marlborough, MA	03/24/2005	03/15/2005
56,830	Jarvis Caster (State)	Harrisburg, AR	03/24/2005	03/22/2005
56,831	Mueller Copper Tube Products (State)	Wynne, AR	03/24/2005	03/22/2005
56,832	SAS Ornamental, Inc. (Comp)	El Paso, TX	03/25/2005	03/07/2005
56,833	Thermotech Company (State)	Hopkins, MN	03/25/2005	03/24/2005
56,834	Thomasville Furniture Inc. (Comp)	Thomasville, NC	03/25/2005	03/21/2005
56,835	Therm-O-Disc, Inc. (Wrks)	Mansfield, OH	03/25/2005	03/16/2005
56,836	Leggett and Platt (State)	York, PA	03/25/2005	03/15/2005
56,837	Calley and Currier Co. (Stte)	Patten, ME	03/25/2005	03/21/2005
56,838	Alden Manufacturing Co. (Comp)	Chicago, IL	03/25/2005	03/17/2005
56,839	Exide Technologies (UAW)	Shreveport, LA	03/25/2005	03/23/2005
56,840	PAM Trading Corporation (Comp)	Greensboro, NC	03/25/2005	03/18/2005
56,841	Robin-Lynn Mills (AL)	Fort Payne, AL	03/25/2005	03/23/2005
56,842	KUS, Inc. (UAW)	Fort Wayne, IN	03/29/2005	03/28/2005
56,843	Ozburn-Hessey Logistics (Wkrs)	Lawrenceburg, TN	03/29/2005	03/15/2005
56,844	Design Institute America, Inc. (Comp)	Jasper, IN	03/29/2005	03/21/2005
56,845	Elringklinger Sealing Systems (USA), Inc.	Livonia, MI	03/29/2005	03/18/2005
56,846	Ametek National Controls Corp. (Comp)	West Chicago, IL	03/30/2005	03/25/2005
56,847	Nexan's Magnet Wire (Wkrs)	LaGrange, KY	03/30/2005	03/14/2005
56,848	Emmi, Inc. (State)	Los Angeles, CA	03/30/2005	03/21/2005
56,849	Acco Chain (USWA)	York, PA	03/30/2005	03/21/2005
56,850	Hydro-Logic (Wkrs)	Warren, MI	03/30/2005	03/05/2005
56,851	Xerox Corporation (Wkrs)	Webster, NY	03/30/2005	03/18/2005
56,852	Akzo Nobel/Akros (Wkrs)	New Brunswick, NJ	03/30/2005	03/11/2005
56,853	ITEMA America, Inc. (frmly Sultex USA) (Wkrs)	Spartanburg, SC	03/30/2005	03/23/2005
56,854	Mettler-Toledo, Inc. (NPC)	Inman, SC	03/30/2005	03/02/2005
56,855	General Cable (IBEW)	Bonham, TX	03/30/2005	03/15/2005
56,856	Thomas and Betts (Wkrs)	Mercer, PA	03/30/2005	03/22/2005
56,857	L.A. T Sportswear, LLC (Comp)	Roberta, GA	03/30/2005	03/29/2005
56,858	Snap-on Tools, Inc. (Wkrs)	Mt. Carmel, IL	03/30/2005	03/28/2005
56,859	Ametek, Inc. (Comp)	Grand Junction, CO	03/30/2005	03/24/2005
56,860	4A Enterprises (State)	Williamsville, MO	03/30/2005	03/24/2005
56,861	Federal-Mogul, Power Train Div. Bearings (Wkrs).	Blacksburg, VA	03/30/2005	03/23/2005
56,862	Topcon Medical Systems, Inc. (Comp)	Norristown, PA	03/31/2005	03/29/2005

APPENDIX—Continued

[Petitions instituted between 03/14/2005 and 04/01/2005]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
56,863	Valspar (Comp)	High Point, NC	03/31/2005	03/14/2005
56,864	Chamberlain Group, Inc. (Comp)	Ronkonkoma, NY	03/31/2005	03/29/2005
56,865	Meyers Industries (Wkrs)	Hickory, NC	04/01/2005	03/15/2005
56,866	Sun Microsystems (Wkrs)	Nashua, NH	04/01/2005	04/01/2005
56,867	Manual Transmission (Wkrs)	Muncie, IN	04/01/2005	04/01/2005
56,868	River Valley Contract Manufacturing, Inc	Menifee, AR	04/01/2005	03/03/2005
56,869	National Textiles, LLC (Comp)	Hodges, SC	04/01/2005	03/21/2005
56,870	Locklear Manufacturing, Inc. (Comp)	Fort Payne, AL	04/01/2005	03/31/2005

[FR Doc. E5–2092 Filed 4–29–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,329]

Spherion Corporation, Spherion Pacific Workforce Enterprise LLC, Spherion-Contact Center Solutions, Las Vegas Facility, Las Vegas, NV; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Spherion Corporation, Spherion Pacific Workforce Enterprise LLC, Spherion-Contact Center Solutions, Las Vegas Facility, Las Vegas, Nevada. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–56,329 Spherion Corporation, Spherion Pacific Workforce Enterprise LLC, Spherion-Contact Center Solutions, Las Vegas Facility, Las Vegas, Nevada (April 22, 2005)

Signed at Washington, DC, this 25th day of April 2005.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E5–2081 Filed 4–29–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,628]

Vishay Intertechnology, Dale Electronics Division, Norfolk, NE; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 24, 2005, in response to a petition filed by a State agency representative on behalf of workers of Vishay Dale Electronics Inc., Norfolk, Nebraska. The official company name is Vishay Intertechnology, Dale Electronics Division, Norfolk, Nebraska.

The worker group is covered by an active certification of eligibility to apply for worker adjustment assistance and alternative trade adjustment assistance under petition number TA–W–55,818, which remains in effect through November 18, 2006. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 4th day of April, 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–2088 Filed 4–29–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Investment Act (WIA) Financial Reporting Requirements for the National Farmworker Jobs Program, Under Title I of the Act

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Employment and Training Administration (ETA) is soliciting comments concerning the proposed extension and revision to the financial reporting requirements for the National Farmworker Jobs Program.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before July 1, 2005.

ADDRESSES: Ms. Isabel Danley, Office of Grants and Contract Management, Employment and Training Administration, United States Department of Labor, 200 Constitution Avenue, NW., Room N–4720, Washington, DC 20210, (202) 693–3047 (this is not a toll-free number), *danley.isabel@dol.gov,* and/or FAX (202) 693–3362.

FOR FURTHER INFORMATION CONTACT: Ms. Isabel Danley, Office of Grants and Contract Management, Employment and Training Administration, United States Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 693–3047 (this is not a toll-free number), *danley.isabel@dol.gov,* and/or FAX (202) 693–3362. Copies of the Paperwork Reduction Act Submission Package may be found at the Web site *http://www.doleta.gov/Performance/guidance/OMBControlNumber.cfm.*

SUPPLEMENTARY INFORMATION:

I. Background

This proposed information collection notice is requesting a revision to the

financial reporting collection format for the WIA National Farmworker Jobs Program as approved in Office of Management and Budget (OMB) Notice of Action Number 1205–0428 (ETA Form Number 9092). The basic financial reporting requirements for this program are set forth in Public Law 105–220, dated August 7, 1998, and 20 CFR 652, *et al.*, Workforce Investment Act Final Rules, dated August 11, 2000. The proposed revised format has been designed to ensure compliance with the Federal Financial Assistance Management Improvement Act of 1999 (Public Law 106–107), as well as Public Law 105–220, dated August 7, 1998, Title I, Subtitle D, Section 166 and Subtitle E, Section 184. Pursuant to Public Law 106–107, Federal awarding agencies have jointly developed a standard Federal Financial Report (FFR) which is currently pending OMB final clearance. The preamble language states that agencies seeking renewal of existing agency/program specific forms, prior to January 31, 2005, may only obtain approval from OMB through January 31, 2005; and agencies wishing to use or continue using agency/program-specific forms, must obtain approval from OMB. ETA Form 9092, which expired October 31, 2004, has been granted an extension for use through May 31, 2005, per OMB Notice of Action, dated February 28, 2005. The Department has been extremely proactive in preparing to implement the government-wide streamlining efforts mandated by Public Law 106–107. This proposed collection request is pursuant to those efforts. It should also be noted that the National Farmworker Jobs Program requires the following three financial break-outs which are not on the standard FFR: Total Administrative Outlays, Related Assistance Outlays, and Other Program Services Outlays. This further necessitates approval of a modified FFR for the National Farmworker Jobs Program.

II. Desired Focus of Comments

Currently, the Department is soliciting comments concerning the proposed revision of a currently approved collection of the WIA financial reporting requirements for the National Farmworker Jobs Program to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

A copy of the proposed information clearance request (ICR) can be obtained directly through the Web site *http://www.doleta.gov/Performance/guidance/OMBControlNumber.cfm* or by contacting the office listed above in the addressee section of this notice.

III. Current Actions

Type of Review: Revision of a currently approved collection.

Agency: Employment and Training Administration

Title: Workforce Investment Act Financial Reporting Requirements for National Farmworker Jobs Program, under Title I of the Act.

OMB Number: 1205–0428.

Agency Numbers: Revision to ETA 9092.

Affected Public: State agencies, local governments, other for profit and non-profit organizations, and consortia of any and/or all of the above.

Total Respondents: 53.

Frequency: Quarterly.

DOL–ETA Reporting Burden for WIA Title I—NFJP Grantees

Requirements	PY 2004	PY 2005	PY 2006
Number of Reports Per Entity Per Quarter	3	3	3
Total Number of Reports Per Entity Per Year	12	12	12
Number of Hours Required Per Report	1	1	1
Total Number of Hours Required for Reporting Per Entity Per Year	12	12	12
Number of Entities Reporting	53	53	53
Total Number of Hours Required for Reporting Burden Per Year	636	636	636
Total Burden Cost @ $28.51 per hour*	18,132	$18,132	$18,132

*$28.51 per hour is based on a GS 12 Step 1 salary.

Note: Number of reports required per entity per quarter/per year is impacted by the 3 year life of each year of appropriated funds.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record.

Dated: April 25, 2005.

Emily Stover DeRocco,

Assistant Secretary for Employment and Training.

[FR Doc. E5–2074 Filed 4–29–05; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by June 1, 2005. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

Permit Application No. 2006–009.

1. *Applicant:* Samuel S. Bowser, Wadsworth Center, New York State, Department of health, P.O. Box 509, Albany, NY 12202–0509.

Activity for Which Permit is Requested: Introduce non-indigenous species into Antarctica. The applicant plans to use brine shrimp hatchings (*Artemia sp.*) as food for foraminiferan protests. Specimens of foraminifera will be incubated with Artemia for 24–48 hours in isolated culture chambers, and the number of prey captured by the foraminifera will be assessed by direct observation using a stereomicroscope. The purpose of the study is to determine the phylogenetic extent of metazoan carnivory by basal foraminiferan protests. The samples will be chemically sterilized before disposal with hazmat.

Location: Crary Science and Engineering Center, McMurdo Station, and Explorers Cove field camp, New Harbor.

Dates: October 1, 2005 to December 31, 2006.

Permit Application No. 2006–020.

2. *Applicant:* David Ainley, HT Harvey & Associates, 3150 Almaden Expressway, Suite 145, San Jose, CA 95118.

Activity for Which Permit is Requested: Enter Antarctic Specially Protected Area. The applicant plans to enter Cape Crozier (ASPA #124), Cape Royds (ASPA #121), Beaufort Island (ASPA #105), and Cape Bird to conduct studies of Adelie penguins. The applicant plans to capture up to 2,800 Adelie chicks, fledglings, and adults for weighing, measuring, tagging with RFID taps or flipper bands, applying and removing special instruments (TDRs, SPOT satellite tags, GLS tags) to study their foraging efforts and colony productivity. This is an international collaborative investigation of geographic structuring, founding of new colonies, and population change of Adelie penguins nesting on Ross Island and Beaufor Island.

Location: Cape Crozier (ASPA #123), Cape Royds (ASPA #121), Beaufort Island (ASPA #105), and Cape Bird.

Dates: November 1, 2005 to February 15, 2010.

Permit Application No. 2006–011.

3. *Applicant:* Thomas W. Yelvington, Raytheon Technical Services Company LLC, Polar Services, 7400 S. Tucson Way, Centennial CO 80112–3938.

Activity for Which Permit is Requested: Take. The applicant plans to hered, relocate or remove seals, penguins or other seabirds from station operational areas for the protection of the animals and safety of station personnel and equipment.

Location: Palmer Station, Anvers Island, Antarctic Peninsula.

Dates: May 1, 2005 to August 31, 2010.

Permit Application No. 2006–005.

4. *Applicant:* Rae Natalie Prosser Goodall, Sarmiento 44, 9410 Ushuaia, Tierra del Fuego, Argentina.

Activity for Which Permit is Requested: Take. The applicant plans to salvage bones of dead animals (seals, penguins, dolphins, whales or seabirds) opportunistically found on the beaches in the Antarctic Peninsula Region. Salvaged materials will be cleaned, numbered and deposited in a collection housed in the Museo Actushun de Aves y Mamiferos Marinos Australes at Harberton Station, Tierra del Fuego. The skeletons from Antarctic waters are especially useful in a comparison study with skeletal collections from southernmost South America. Specimens are also available to other scientists for study.

Location: Antarctic Peninsula, South Shetland Islands and adjacent islands.

Dates: October 1, 2005 to September 30, 2010.

Permit Application No. 2006–006.

5. *Applicant:* Thomas W. Yelvington, Raytheon Technical Services Company LLC, Polar Services, 7400 S. Tucson Way, Centennial, CO 80112–3938.

Activity for Which Permit is Requested: Enter Antarctica Specially Protected Area. The applicant plans to enter Cape Crozier (ASPA #124) to complete remediation of an old camp site that burned at the site years ago. Recent snow melt has revealed additional debris that needs to be removed. The applicant plans to remove the debris in early October to avoid the arrival of the penguins.

Location: Cape Crozier (ASPA #124).

Dates: October 1, 2005 to September 30, 2010.

Permit Application No. 2006–012.

6. *Applicant:* Thomas W. Yelvington, Raytheon Technical Services Company LLC, Polar Services, 7400 S. Tucson Way, Centennial, CO 80112–3938.

Activity for Which Permit is Requested: Enter Antarctic Specially Protected Area. The applicant plans to enter Cape Royds (ASPA #121) for the purpose of conducting an environmental audit of the Long Term Ecological Research Camp and project site near Pony Lake at Cape Royds. The audit process provides the necessary data for evaluating how closely management practices are being followed consistent with the Master Permit and that any existing mitigating measures listed in the Environmental Impact Assessment documents are implemented in the field.

Location: Cape Royds (ASPA #121).

Dates: October 1, 2005 to September 30, 2010.

Permit Application No. 2006–013.

7. *Applicant:* Douglas R. MacAyeal, Department of Geophysical Sciences, University of Chicago, 5734 S. Ellis Avenue, Chicago, IL 60637.

Activity for Which Permit is Requested: Enter Antarctic Specially Protected Area. The applicant currently operates an automatic ''Web cam'' on the cliff of iceberg B15k that looks down at the Beaufort Island Emperor penguin colony. The applicant proposes to enter Beaufort Island (ASPA #105) should the Web cam fall off its perch and needs recovery.

Location: Beaufort Island (ASPA #105).

Dates: October 15, 2005 to November 25, 2005.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 05–8689 Filed 4–29–05; 8:45 am]

BILLING CODE 7550–01–M

NATIONAL SCIENCE FOUNDATION

Notice of the Availability of an Environmental Assessment

AGENCY: National Science Foundation.

ACTION: Notice of availability of a draft Environmental Assessment for proposed activities in the Arctic.

SUMMARY: The National Science Foundation gives notice of the availability of a draft Environmental Assessment for proposed activities in the Arctic.

The Office of Polar Programs (OPP) has prepared an Environmental Assessment of a Biocomplexity Study of the Response of Tundra Carbon Balance to Warming and Drying Across Multiple Time Scales, 2005–2008. Given the United States Arctic Program's mission to support polar research, the proposed action is expected to result in substantial benefits to science. The draft Environmental Assessment is available for public review for a 30-day period.

DATES: Comments must be submitted on or before June 1, 2005.

ADDRESSES: Comments should be submitted to Dr. Polly A. Penhale, National Science Foundation, Office of Polar Programs, 4201 Wilson Blvd., Suite 755, Arlington, VA 22230. Telephone: (703) 292–8033. Copies of the draft Environmental Assessment are available upon request from Dr. Penhale, or at the Web site: *http://www.nsf.gov/od/opp/arctic/arc_envir/tundra_ea.pdf.*

SUPPLEMENTARY INFORMATION: This project will examine how biological and physical processes interact to control carbon uptake, storage and release in Arctic tundra ecosystems using an experimental approach to manipulate tundra moisture. Approximately 25% of the world's soil organic soil organic carbon reservoir is stored at high northern latitudes in permafrost and seasonally-thawed soils in the Arctic, a region that is currently undergoing unprecedented warming and drying, as well as dramatic changes in human land use. The objective of this study is to quantify linkages between soil moisture and carbon uptake, storage and release over multiple spatial (microbial to landscape) and temporal (minutes to decades) scales. Understanding how changes in annual and inter-annual ecosystem productivity interact and potentially offset the balance and stability of the Arctic soil carbon reservoir is of utmost importance to global climate change science.

The project is focused on a soil moisture manipulation involving a 60-hectare tundra flooding/draining experiment near Barrow, Alaska on the Arctic Coastal Plain. The project is located within the Barrow Environmental Observatory (BEO). The BEO is 7,446 acres of land owned by the Ukpeagvik Inupiat Corporation (UIC) in a designated Conservation District that has been zoned as a scientific research district for long-term, experimental studies, such as this.

A permit has been acquired by the project from the U.S. Army Corps of Engineers (U.S. ACOE) for the manipulation of wetland tundra. The National Science Foundation has received a Biological Opinion finding of non-jeopardy through the Section 7 Consultation with U.S. Fish and Wildlife Service required by the Endangered Species Act regarding the two threatened species that may be encountered or displaced by the project, Steller's elders and spectacled eiders. The potential impacts of the project were considered thoroughly during project planning and are anticipated to have no significant impact on the environment with the implementation of the associated mitigating measures defined in environmental assessment and the U.S. ACOE permit.

Copies of the draft Environmental Assessment titled, an Environmental Assessment of a Biocomplexity Study of the Response of Tundra Carbon Balance to Warming and Drying Across Multiple Time Scales, 2005–2008, are available upon request from: Dr. Polly A. Penhale, National Science Foundation, Office of Polar Programs, 4201 Wilson Blvd., Suite 755, Arlington, VA 22230. Telephone: (301) 292–8033 or at the agency's Web site at: *http://www.nsf.gov/od/opp/arctic/arc_envir/tundra_ea.pdf.* The National Science Foundation invites interested members of the public to provide written comments on this draft Environmental Assessment.

Polly A. Penhale,

Environmental Officer, Office of Polar Programs, National Science Foundation.

[FR Doc. 05–8690 Filed 4–29–05; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Education and Human Resources; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting

Name: Advisory Committee for Education and Human Resources (#1119).

Date/Time: May 11, 2005; 8:30 a.m. to 5 p.m. May 12, 2005; 8:30 a.m. to 12 p.m.

Place: Holiday Inn Arlington, 4610 North Fairfax Drive, Arlington and Clarendon Ballrooms. Arlington VA 22203.

Type of Meeting: Open.

Contact Person: James Colby, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 292–5331. If you are attending the meeting and need access to the NSF please contact the individual listed above so your name may be added to the building access list.

Purpose of Meeting: To provide advice with respect to the Foundation's education and human resources programming.

Agenda:

MAY 11, 2005

Time	Activity
8 a.m	Assemble in Conference Room.
8:30 a.m	Introductions, Opening Presentation.
9 a.m	Discussion with Acting Assistant Director, EHR.
10 a.m	Break.
10:15 a.m	Programmatic Planning • Focus on Undergraduate. • Focus on K–12. • Focus on Research.
Noon	Lunch (TBD).
1:30 p.m	Updated on Division/Office Activities.
2:30 p.m	Break.
2:45 p.m	COV Reports and Discussion.
4 p.m	Focus on Program/Project Evaluation.
5 p.m	Recess.

MAY 12, 2005

Time	Activity
8 a.m	Assemble in Conference Room.
8:30 a.m	Discussion w/Arden Bement.
9:30 a.m	Review of Day 1, Next Steps.
10:15 a.m	Break.
10:30 a.m	Next Steps, Continued.
11:30 a.m	Closing Remarks.
Noon	Adjourn.

Dated: April 27, 2005.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 05–8688 Filed 4–29–05; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[IA–05–021]

In the Matter of Andrew Siemaszko; Order Prohibiting Involvement in NRC-Licensed Activities

Mr. Andrew Siemaszko was previously employed as a system engineer at the Davis-Besse Nuclear Power Station (Davis-Besse) operated by FirstEnergy Nuclear Operating Company (FENOC or Licensee). The Licensee holds License No. NPF–3 which was issued by the Nuclear Regulatory Commission (NRC or Commission)

pursuant to 10 CFR part 50 on April 22, 1977. The license authorizes the operation of Davis-Besse in accordance with the conditions specified therein. The facility is located on the Licensee's site near Oak Harbor, Ohio.

On February 16, 2002, Davis-Besse was shut down for refueling and inspection of control rod drive mechanism (CRDM) reactor pressure vessel (RPV) head penetration nozzles. Using ultrasonic testing, the Licensee found cracks in three CRDM penetration nozzles and on March 6, 2002, the Licensee discovered a cavity in the RPV head in the vicinity of CRDM Penetration Nozzle No. 3. The cavity measured approximately 5 to 7 inches long, 4 to 5 inches wide, and penetrated though the 6.63 inch-thick low-alloy steel portion of the RPV head, leaving the stainless steel clad material (measuring 0.202 to 0.314 inches-thick) as the sole reactor coolant system (RCS) pressure boundary. A smaller cavity was also found near CRDM Penetration Nozzle No. 2.

The Licensee had conducted a root cause evaluation and determined that the cavities were caused by boric acid from the RCS released through cracks in the CRDM penetration nozzles. The Licensee conducted limited cleaning and inspections of the RPV head during the Twelfth Refueling Outage (12RFO) that ended on May 18, 2000. However, neither the limited RPV head cleaning nor the resultant inspections during 12RFO were sufficient to ensure that the significant boric acid deposits on the RPV head were only a result of CRDM flange leakage as supposed and were not a result of RCS pressure boundary leakage.

On March 6 and March 10, 2002, the Licensee provided information to the NRC concerning the identification of a large cavity in the RPV head adjacent to CRDM Penetration Nozzle No. 3. The NRC conducted an Augmented Inspection Team (AIT) inspection at the Davis-Besse Station from March 12 to April 5, 2002, to determine the facts and circumstances related to the significant degradation of the RPV head. The results of the AIT inspection were documented in NRC Inspection Report No. 50–346/2002–03, issued on May 3, 2002. A follow-up special inspection was conducted from May 15 to August 9, 2002, and on October 2, 2002, the NRC issued the AIT Follow-up Special Inspection Report No. 50–346/2002–08 documenting ten apparent violations associated with the RPV head degradation. Based upon an investigation into the causes for the apparent violations documented in the special inspection report, the NRC Office of Investigations (OI) determined that the apparent violations involved deliberate failures to comply with NRC requirements and regulations. The OI investigation results were documented in OI Report No. 3–2002–006, dated August 22, 2003 and the matter remains under Federal investigation.

Based on the results of the special inspection conducted by the NRC staff and the OI investigation, the NRC determined that Mr. Andrew Siemaszko engaged in deliberate misconduct that caused the Licensee to be in violation of the NRC requirement to maintain and provide to the NRC materially complete and accurate information, 10 CFR 50.9.

Andrew Siemaszko, a System Engineer at Davis-Besse Station, was responsible for ensuring the RPV head was cleaned during April 2000. Davis-Besse Work Order No. 00–001846–000 described the problem to be resolved as:

> Large boron accumulation was noted on the top of the RX [reactor] head and on top of the insulation. Boric acid corrosion may occur * * * Work Description * * * Clean boron accumulation from top of reactor head and on top of insulation. See Andrew Siemaszko (Plant Engineering) * * * for additional details.

On April 25, 2000, in the ''Failure Evaluation/Description of Work Performed'' section of Work Order No. 00–001846–000, Mr. Siemaszko wrote ''work performed without deviation.''

Mr. Siemaszko initiated Condition Report (CR) No. 2000–1037 on April 17, 2000, and described the condition as:

> Inspection of the Reactor Head indicated accumulation of boron in the area of the CRD [control rod drive] nozzle penetrations through the head. Boron accumulation was also discovered on top of the thermal insulation under the CRD flanges. Boron accumulated on the top of the thermal insulation resulted from the CRD leakage. The CRD leakage issues are discussed in CR 2000–0782.

Entered in the ''Remedial Actions'' Section of CR No. 2000–1037 was,

> Accumulated boron deposited between the reactor head and the thermal insulation was removed during the cleaning process performed under W.O. (Work Order) 00–001846–000. No boric acid induced damage to the head surface was noted during the subsequent inspection.

Also included on Condition Report No. 2000–0137 was,

> MODE 4 RESTRAINT—Complete all actions necessary to restore equipment to allow the Mode change. When all actions are complete, document on a Cause/Action Sheet (ED83242B) and provide a copy of the CR to Quality Programs.

Information that Mr. Siemaszko told OI during a sworn, transcribed interview indicated that Mr. Siemaszko knew at the completion of 12RFO that the RPV head had not been cleaned of all boric acid deposits, yet he provided information on Condition Report No. 2000–0137 and Work Order No. 00–001846–000 indicating that the RPV head was cleaned of boric acid deposits.

The Licensee removed the restraint to changing operations to Mode 4 on April 27, 2000, based, in part, on the information provided to the Licensee by Mr. Siemaszko that the reactor vessel had been cleaned of boric acid deposits, as documented on CR No. 2000–1037 and Work Order No. 00–001846–000.

10 CFR part 50, Appendix B, Criterion XVI, requires that the Licensee establish measures to ensure that conditions adverse to quality, such as failures, malfunctions, deficiencies, deviations, defective material and equipment, and nonconformances are promptly identified and corrected. In the case of significant conditions adverse to quality, the measures shall ensure that the cause of the condition is determined and corrective action taken to preclude repetition. The identification of the significant condition adverse to quality, the cause of the condition, and the corrective action taken shall be documented and reported to appropriate levels of management.

10 CFR part 50, Appendix B, Criterion XVII, requires, in part, that the Licensee maintain sufficient records to furnish evidence of activities affecting quality, including records of work performance.

Condition Report (CR) No. 2000–1037 described a significant condition adverse to quality and the corrective actions taken to preclude repetition. Work Order No. 00–001846–000 is a record of an activity affecting quality and documented work performance.

Review of documents and videotapes concerning the inspection of the RPV head during 12RFO, that ended on May 18, 2000, and the inspections of the RPV head during Refueling Outage 13, that began on February 12, 2002, indicated that boric acid deposits remained on the RPV head following 12RFO. This is contrary to information Mr. Siemaszko documented in: (1) Work Order No. 00–001846–000 that work was performed without deviation; and (2) CR No. 2000–1037 that the accumulated boron deposited between the reactor head and the thermal insulation was removed during the cleaning process performed and no boric acid induced damage to the head surface was noted during the subsequent inspection.

10 CFR 50.9 requires, in part, that information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by

the licensee shall be complete and accurate in all material respects.

Based on the above information, the NRC concludes that Mr. Siemaszko deliberately provided materially incomplete and inaccurate information in CR No. 2000–1037 and Work Order No. 00–001846–000, that are records the NRC requires the Licensee to maintain. The information provided by Mr. Siemaszko in CR No. 2000–1037 and Work Order No. 00–001846–000 was material to the NRC because the presence of boric acid deposits on the RPV head is a significant condition adverse to quality that went uncorrected, in part, due to Mr. Siemaszko's incomplete and inaccurate description of the work activities and corrective actions.

Based on the above, Mr. Andrew Siemaszko, while employed by the Licensee, engaged in deliberate misconduct that has caused the Licensee to be in violation of 10 CFR 50.9 by deliberately providing to the Licensee information that he knew to be incomplete or inaccurate in a respect material to the NRC, in violation of 10 CFR 50.5. The NRC determined that these violations were of very high safety and regulatory significance because they documented a pattern of deliberate inaccurate or incomplete documentation of information that was required to be maintained or submitted to the NRC. Had the NRC been aware of this incomplete and inaccurate information, the NRC would likely have taken immediate regulatory action to shut down the plant and require the licensee to implement appropriate corrective actions.

As a direct result of these violations, the NRC determined that FENOC started up and operated the plant, for the last operating cycle prior to the February 16, 2002, shutdown without: (1) Fully understanding or characterizing the condition of the reactor pressure vessel head and the control rod drive penetrations; (2) determining the cause of significant boric acid build up on the reactor pressure vessel head, the control rod drive penetrations, and several other components in the reactor containment building; (3) properly identifying the presence of ongoing reactor coolant system pressure boundary leakage and taking appropriate corrective actions; and, (4) identifying a very significant ongoing degradation of the reactor pressure vessel head which required a number of years to reach the level of material wastage observed in March 2002. Finally, the NRC determined that the inaccurate and incomplete information provided by Mr. Siemaszko contributed to continued operation of the plant with ongoing reactor coolant system pressure boundary leakage and the significant degradation of the reactor pressure vessel head, a significant condition adverse to quality.

The NRC must be able to rely on the Licensee and its employees to comply with NRC requirements, including the requirement to provide information and maintain records that are complete and accurate in all material respects. Mr. Siemaszko's action caused the Licensee to violate 10 CFR 50.9 and raised serious doubt as to whether he can be relied upon to comply with NRC requirements and to provide complete and accurate information to the NRC.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Siemaszko is permitted to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Mr. Siemaszko be prohibited from any involvement in NRC-licensed activities for a period of five years from the effective date of this Order. Additionally, Mr. Siemaszko is required to notify the NRC of his first employment in NRC-licensed activities for a period of five years following the prohibition period.

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, it is hereby ordered that:

1. Mr. Andrew Siemaszko is prohibited for five years from the effective date of this Order from engaging in NRC-licensed activities. The NRC considers NRC-licensed activities to be those activities that are conducted pursuant to a specific or general license issued by the NRC, including those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. If Mr. Siemaszko is currently involved with another licensee in NRC-licensed activities, he must immediately cease those activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer.

3. For a period of five years after the five year period of prohibition has expired, Mr. Siemaszko shall, within 20 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in NRC-licensed activities. In the notification, Mr. Siemaszko shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Siemaszko of good cause.

In accordance with 10 CFR 2.202, Andrew Siemaszko must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order within 90 days of the date of this Order. However, since this enforcement action is being proposed prior to the U.S. Department of Justice completing its review of the OI investigation results, consideration may be given to extending the response time for submitting an answer as well as the time for requesting a hearing, for good cause shown. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Siemaszko or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region III, 2443 Warrenville Road, Lisle, IL 60532–4352, and to Mr. Siemaszko if the answer or hearing request is by a person other than Mr. Siemaszko. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of

facsimile transmission to (301) 415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of the General Counsel either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* If a person other than the Mr. Siemaszko requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR § 2.309.

If a hearing is requested by Mr. Siemaszko or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be effective and final 90 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

Dated this 21st day of April 2005.

For The Nuclear Regulatory Commission.

Ellis W. Merschoff,

Deputy Executive Director for Reactor Programs, Office of the Executive Director for Operations.

[FR Doc. E5–2070 Filed 4–29–05; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Report to Congress on Abnormal Occurrences Fiscal Year 2004 Dissemination of Information

Section 208 of the Energy Reorganization Act of 1974 (Pub. L. 93–438) defines an abnormal occurrence (AO) as an unscheduled incident or event which the U.S. Nuclear Regulatory Commission (NRC) determines to be significant from the standpoint of public health or safety. The Federal Reports Elimination and Sunset Act of 1995 (Pub. L. 104–66) requires that AOs be reported to Congress annually. During fiscal year 2004, 17 events that occurred at facilities licensed or otherwise regulated by the NRC and/or Agreements States were determined to be AOs. The report describes four events at facilities licensed by the NRC. One event involved a uranium hexafluoride release at a fuel cycle facility. Another event, also at a fuel cycle facility, revealed excessive uranium concentrations found in ash deposits in various locations in an incinerator. A third event involved a patient undergoing therapeutic brachytherapy treatment. The fourth event involved an unintentional excessive dose of sodium iodide (I–131) administered to a patient. The report also addresses 13 AOs at facilities licensed by Agreement States. [Agreement States are those States that have entered into formal agreements with the NRC pursuant to Section 274 of the Atomic Energy Act (AEA) to regulate certain quantities of AEA licensed material at facilities located within their borders.] Currently, there are 33 Agreement States. During FY 2004, the NRC received notification of 13 events that occurred at Agreement State-licensed facilities, including 8 therapeutic medical events, 3 diagnostic medical events, 1 event involving an unintentional dose of I–131 to an embryo/fetus, and 1 event involving an extremity overexposure to a radiopharmacy trainee. As required by Section 208, the discussion for each event includes the date and place, the nature and probable consequences, the cause or causes, and the action taken to prevent recurrence. Each event is also being described in NUREG–0090, Vol. 27, ''Report to Congress on Abnormal Occurrences, Fiscal Year 2004.'' This report will be available electronically at the NRC Web site *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/.*

Nuclear Power Plants

During this period, no events occurred at U.S. nuclear power plants that were significant enough to be reported as AOs.

Fuel Cycle Facilities

(Other Than Nuclear Power Plants)

During this period, two events occurred at U.S. fuel cycle facilities that were significant enough to be reported as AOs.

04–01 Uranium Hexafluoride Release at Honeywell Speciality Chemicals, Inc. in Metropolis, Illinois

Date and Place—December 22, 2003; Honeywell International, Inc., Honeywell Specialty Chemicals, Metropolis, Illinois.

Nature and Probable Consequences—On December 22, 2003, a uranium hexafluoride (UF_6) release occurred from one of the plant's chemical process lines. The release occurred due to improper valve alignment which caused inadvertent pressurization of the system. The licensee did not have a written procedure for a process that was performed infrequently and relied on the operator's memory to perform the required actions. The release lasted approximately 40 minutes. The licensee observed a visible cloud crossing the site boundary and declared a site area emergency, which was terminated approximately 4 hours later. Approximately 25 members of the public were temporarily evacuated from their homes, and approximately 75 persons remained sheltered in their homes for a time. Four members of the public went to the hospital. Three of the four were examined and released, while the fourth was held for observation and released the next day.

This individual showed skin reddening on portions of his face and part of one arm, which indicated a hydrogen fluoride (HF) acid burn. Honeywell's initial estimate of a release of 7 pounds of UF_6 was later refined to be approximately 70 pounds. Honeywell shut the plant down and agreed to discuss corrective actions with the NRC before restarting operations to determine whether the NRC had any objection to restarting specific operations.

Cause(s)—An NRC Augmented Inspection Team (AIT) and Honeywell's Root Cause Investigation Team identified similar root and contributing causes. The Honeywell Root Cause Investigation Team provided its findings to the NRC in a meeting on February 11, 2004.

Key causes were as follows:

- The licensee failed to have a written procedure for an infrequent evolution and, thus, relied on the operator's memory to perform the required actions.
- The licensee's corrective action program had not adequately corrected a previously identified lack of procedures for certain activities, the licensee had not adequately aligned staff to the need for procedures for activities.
- The licensee did not have an alarm to warn operators that the system was becoming pressurized. The licensee did not have procedures or measures to respond to abnormal conditions during operations. The licensee did not have procedures or processes for documenting when equipment was not in proper working order.

In addition, the AIT and Honeywell Root Cause Investigation Team identified problems in implementing the emergency plan once the licensee identified the release, including problems in communication with State and local authorities.

Actions Taken To Prevent Recurrence

Licensee—In addition to the Root Cause Investigation Team, Honeywell chartered a Plant Engineering Team, a ''Triangle of Prevention'' Team, and a Corporate ''Deep Dive'' Team to review the facility and operations. These teams reviewed certain UF_6 safety and environmental improvements, management processes, change management, mechanical integrity, and the emergency plan. As a result of these reviews, Honeywell developed a list of corrective and improvement actions to be completed before restarting operations. On March 4, 2004, Honeywell submitted a list of the actions to be taken for each phase of the restart. Honeywell has also worked with State and local authorities to improve emergency response, and the company conducted an emergency drill with local agencies on March 11, 2004. That drill identified items that needed to be improved, including use of the dedicated phone for communicating with off site authorities. Honeywell plans to improve this communication method. In addition, Honeywell is in the process of implementing other corrective and improvement actions.

NRC—The NRC developed a Restart Readiness Oversight Plan to review Honeywell's actions, including safety and emergency preparedness improvements. The NRC has reviewed actions the licensee planned to prevent recurrence. In addition, the NRC observed an emergency drill of the revised Emergency Plan and procedures.

The NRC held two public meetings in Metropolis, Illinois (on March 18 and April 21, 2004) during the restart phase to inform the public of the licensee's plans and progress and to describe the NRC's oversight activities and results. In addition, the NRC completed inspections of the licensee's corrective actions before the restart of licensed operations. On May 10, 2004, the NRC issued a Notice of Violation for two significant violations identified during the AIT inspection. Specifically, those violations involved (1) reconfiguration of the fluorination system without detailed instructions (which allowed a UF_6 leak to occur), and (2) failure to maintain and execute various response measures in the emergency response plan.

The NRC performed followup inspections specifically focused on Honeywell's implementation of its corrective actions on June 10 and August 13, 2004. The areas inspected included plant operations, chemical safety, emergency preparedness, maintenance and surveillance, management organization and controls, and operator training. The June inspection did not identify any violations, but the August inspection identified two Severity Level IV violations. Those cited violations concerned the conduct of operations that were not adequately described in written operating procedures and an inadequate evaluation of the radiological conditions associated with storage of bed material and filter fines.

On September 30, 2004, the NRC held a public meeting with Honeywell to discuss the company's progress in implementing long-term corrective actions that will ensure sustained performance improvements. Honeywell's long-term efforts were primarily directed at procedures and training, plant material conditions, and emergency preparedness. The NRC also described the additional inspections completed since the restart of licensed operations at the site and the agency's plan to continue increased oversight.

The NRC performed an additional inspection in December 2004, and identified a violation that involved the failure of the licensee's operations personnel to properly perform pre-fill inspections of UF_6 cylinders. This failure resulted in Honeywell's shipment of 14 cylinders with prohibited Hunt valves attached. Based upon the results of this inspection, together with those of the previous inspections, the NRC has determined that the heightened oversight of licensed activities performed at the Honeywell facilities will continue.

This event is open for the purpose of this report.

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04–02 Incinerator Event at Westinghouse Columbia Fuel Fabrication Facility in Columbia, South Carolina

Date and Place—Discovered on March 5, 2004; Westinghouse Columbia Fuel Fabrication Facility; Columbia, South Carolina.

Nature and Probable Consequences—The licensee uses a standard industrial incinerator to reduce uranium-contaminated process waste volume and facilitate uranium recovery from the waste. During a technical review of a proposed procedure change, the licensee determined that its incinerator off-gas system was being operated outside the approved safety basis. Samples of ash deposited at various locations in the incinerator exceeded the assumed uranium concentration for incinerator ash. The licensee immediately stopped incinerator operations and performed a complete incinerator clean-out. The licensee determined that approximately 271 kilograms of ash at a maximum uranium concentration of approximately 30 wt% had accumulated in the incinerator's secondary combustion chamber. The licensee had performed a criticality analysis that concluded no ash would accumulate in the secondary combustion chamber, and the maximum uranium concentration of ash in the incinerator system could not exceed 21.6 wt%. No criticality safety controls were in place to prevent the accumulation of fly-ash containing excessive uranium concentrations.

Cause(s)—The licensee's criticality safety staff failed to recognize that fly-ash could accumulate in the incinerator's secondary combustion chamber, and ash uranium concentrations could exceed 21.6 wt%. Contributing factors were the failure to control incinerator operations that allowed the increased uranium concentration in the fly-ash, and failure to recognize excessive material accumulation or uranium concentration increases.

Actions Taken To Prevent Recurrence

Licensee—The licensee immediately stopped incinerator operations and initiated a project to prevent future material accumulations. The licensee also initiated a program to upgrade criticality safety at the plant, including assigning additional staff to the nuclear criticality safety program, improving ownership of criticality safety by production and engineering staff, improving management and ownership of change, performing a comprehensive review of existing criticality safety analyses, using the integrated safety analysis process to prioritize changes to administrative criticality safety controls, and implementing a comprehensive program throughout the plant to ensure procedure compliance.

NRC—On May 13, 2004, the NRC issued Inspection Report 70–1151/2004–001, which described the event. On July 19, 2004, the NRC issued an Information Notice to fuel cycle licensees concerning the use of less-than-optimal bounding assumptions in criticality safety analyses at fuel cycle facilities. On July 28, 2004, the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $24,000 to the licensee for failure to establish and maintain double-contingency protection in the incinerator and failure of management controls to detect the accumulation of a critical mass of fissile material in an unsafe geometry vessel. Although the normal civil penalty assessment process

would have fully mitigated the civil penalty, the NRC exercised enforcement discretion in accordance with Section VII.A.1 of the Enforcement Policy and proposed a base civil penalty to reflect the safety significance of the issue, which resulted in a substantial increase in the likelihood of a nuclear criticality event. On October 21, 2004, the NRC conducted a management meeting with the licensee to discuss the incinerator event and its proposed corrective actions. The NRC will follow the corrective actions through the agency's inspection and oversight programs.

This event is closed for the purpose of this report.

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Other NRC Licensees (Industrial Radiographers, Medical Institutions, etc.)

The NRC determined that the following events which occurred at facilities, licensed or otherwise regulated by the NRC, during this reporting period were significant enough to be reported as AOs:

04–03 Iodine–125 Brachytherapy Seed Medical Event at Albert Einstein HealthCare Network in Philadelphia, Pennsylvania

Date and Place—October 16, 2003 (identified on November 20, 2003); Albert Einstein HealthCare Network in Philadelphia, Pennsylvania.

Nature and Probable Consequences—A patient received a permanent brachytherapy implant using iodine–125 (I–125) seeds as treatment for prostate carcinoma on October 16, 2003. The authorized user prescribed a dose of 145 Gy (14,500 rads) to the prostate gland. The implant was performed under ultrasound guidance, and 89 sources were implanted as prescribed in the written directive. On November 17, 2003, the patient returned for a routine postoperative computerized tomography (CT) scan. On November 20, 2003, a review of the scan revealed that many of the seeds were not located in the prostate as intended, but were in adjacent tissue where they were ineffective during treatment. As a result, the prostate gland received an inadequate dose of 18.6 Gy (1,860 rads), while the adjacent tissue received a dose of approximately 115 Gy (11,500 rads). An NRC medical consultant determined that the probable consequences to the patient would be comparable to the effects of external beam radiation treatment for prostate cancer and would not cause further damage to the patient. The patient and the patient's referring physician were notified of the event.

Cause(s)—The licensee determined that this medical event was caused by human error, the most likely being the misidentification of the prostate gland on the intra-operative ultrasound. Other possible causes include shifting of the needle grid in the patient on the operating room table or the suction of the seeds into the needle tract after the removal of the individual needles from the patient.

Actions Taken To Prevent Recurrence

Licensee—The licensee's corrective actions for future prostate brachytherapy treatments include new requirements that an outside radiation oncologist with expertise in prostate brachytherapy will monitor authorized users, and an experienced prostate brachytherapist will observe authorized users as they perform prostate implant procedures. In addition, the licensee implemented revised procedures, including performing a pre-operative CT scan; reviewing pre-planned ultrasound studies prior to, during, and after the procedure; and reviewing postoperative pelvic x-rays within 1 day of the procedure. Furthermore, the Radiation Safety Committee will review all forms, documents, education, and oversight associated with the permanent prostate implant program, and will make recommendations or amendments, as necessary, to reflect programmatic changes.

NRC—The NRC staff conducted a special safety inspection on December 5, 2003, and did not identify any violations associated with the licensee's actions. The NRC also reviewed the licensee's current prostate implant program, and concluded that 12 other I–125 prostate implants had been completed without incident.

This event is closed for the purpose of this report.

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04–04 Diagnostic Medical Event at William Beaumont Hospital in Royal Oak, Michigan

Date and Place—June 8, 2004; William Beaumont Hospital; Royal Oak, Michigan.

Nature and Probable Consequences—The licensee reported that a patient was prescribed a dose of 0.37 megabecquerels (MBq) [10 microcuries (μCi)] of I–131 for a thyroid uptake procedure, but instead received 33.86 MBq (915 μCi) of I–131. The pipette used to prepare I–131 therapy dosages earlier in the day was inadvertently used to draw the 0.37 MBq (10 μCi) I–131 uptake dosage. The technician properly disposed of the I–131 uptake dosage after identifying the error.

The technician then obtained the ''uptake'' pipette and prepared a second dosage from the I–131 bulk uptake solution. However, the ''uptake'' pipette had inadvertently been switched with the ''therapy'' pipette used earlier. This may have occurred because both the thyroid ''uptake'' pipette and the ''therapy'' pipette had illegible labels. As a result, the second dosage contained 0.074 MBq (2 μCi) of I–131 remaining from the earlier therapy administrations and the newly drawn I–131 prepared for the thyroid uptake. The total activity for the second dosage measured 33.86 MBq (915 μCi). The technician focused on drawing the calculated volume required to obtain the prescribed activity, rather than the radioactive activity measured in the dose calibrator and interpreted the ''0.915 millicuries (mCi)'' displayed on the dose calibrator as ''9.15 μCi.'' The technician electronically transferred the dosage measurement from the dose calibrator to a dosage label. A second technician administered the dosage to the patient. Assuming a 55% uptake, the absorbed dose to the patient's thyroid was 26.75 Gy (2,675 rads) with an effective dose equivalent of 0.81 Gy (81 rads). The patient and referring physician were notified of the medical event on June 9, 2004. The licensee indicated that the additional dosage administered to the patient would not result in any increased risk or biological effect to the patient.

Cause(s)—This event was caused by human error. The nuclear medicine technologist who drew the dose misinterpreted the reading on the dose calibrator, and the technician who administered the dose did not verify the dose before administration.

Actions Taken To Prevent Recurrence

Licensee—The licensee implemented a requirement to use a new pipette each time an I–131 uptake dose is prepared, reprogrammed the computer to accept uptake dose activity rather than volume and stopped the computer from printing a dose label when the activity is not within the established range. The licensee also trained the radiopharmacy staff not to override the computer's failsafe mechanisms, and retrained the nuclear medicine technologist in the process for dose verification prior to administration.

NRC—The NRC staff conducted a special safety inspection on June 10, 2004. Then, on September 14, 2004, the NRC issued a Notice of Violation for a significant violation involving the administration of a dosage of liquid I–131 to a patient for a thyroid uptake study that was approximately 90 times

larger than the 10-μCi dosage prescribed by the authorized user physician.

This event is closed for the purpose of this report.

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Agreement State Licensees

The NRC determined that the following events, which occurred at Agreement State licensed facilities during this reporting period, were significant enough for reporting as AOs:

AS 04–01 I–125 Brachytherapy Seed Medical Event at Central Arkansas Radiation Therapy Institute in Conway, Arkansas

Date and Place—December 4, 2003; Central Arkansas Radiation Therapy Institute; Conway, Arkansas.

Nature and Probable Consequences—The licensee reported that a patient received a radiation dose to an unintended area during an I–125 prostate-seed implant procedure. The patient was prescribed treatment with 122 I–125 seeds, with each seed containing an activity of 13.3 MBq (0.36 mCi). During the patient's post-implant CT scan on December 18, 2003, the licensee discovered that the seeds had been implanted 2 centimeters (cm) too low and missed treating the upper portion of the prostate gland. As a result, 68 cm^3 of adjacent tissue received the prescribed dose of 144 Gy (14,400 rads). The licensee reported that the adjacent tissue should not be affected adversely by the dose delivered by the seeds. The licensee administered additional treatment to deliver the intended dose to the upper 2 cm of the prostate gland. The licensee notified the patient and the patient's referring physician of the event.

Cause(s)—This event was attributed to human error in that the treatment site was not verified.

Actions Taken To Prevent Recurrence

Licensee—The licensee wrote a new procedure to implement the use of fluoroscopic guidance to ensure the correct placement of seeds.

State Agency—The State has reviewed and accepted the licensee's corrective actions.

This event is closed for the purpose of this report

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AS 04–02 Dose to Fetus at Hillcrest Hospital of Mayfield Heights, Ohio

Date and Place—November 20, 2003, Hillcrest Hospital; Mayfield Heights, Ohio.

Nature and Probable Consequences—The Ohio Bureau of Radiation Protection reported that a 19-year-old female patient was administered 5.18 gigabequerels (GBq) (140 mCi) of I–131 as prescribed for thyroid carcinoma. At the time, the patient was unaware that she was pregnant and she completed the required forms indicating that she was not pregnant. However, on December 5, 8, and 11, 2003, quantitative tests confirmed that the patient was pregnant. The licensee provided the results to the patient's endocrinologist, who recommended performing a fetal dose calculation. The licensee was notified and its consultant informed the endocrinologist that the fetus would have received a whole body dose of 0.19 Gy (19.8 rads). The endocrinologist sent the results to the Center for Human Genetics at the University Hospital in Cleveland, Ohio, where an assessment determined that the pregnancy could safely continue.

Cause(s)—This event was caused by human error. At the time of the administration, the patient was unaware of her pregnancy status and completed forms indicating that she was not pregnant.

Actions Taken To Prevent Recurrence

Licensee—The licensee has implemented pregnancy testing for patients of child bearing age, who receive radiation therapy.

State Agency—The Ohio Bureau of Radiation Protection was notified of this event on January 16, 2004, and performed a special inspection on January 22, 2004. The State found the licensee's corrective actions adequate to prevent recurrence.

This event is closed for the purpose of this report.

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AS 04–03 High Dose Rate Afterloader Medical Event at New Orleans Cancer Institute at Memorial Medical Center, Louisiana

Date and Place—March 31, 2004; New Orleans Cancer Institute; New Orleans, Louisiana.

Nature and Probable Consequences—A cancer patient undergoing therapeutic radiation treatment for prostate cancer received 18 Gy (1,800 rads) to the wrong treatment site. This error occurred using a high dose rate (HDR) afterloader device with a radioactive source containing 270.7 GBq (7.32 Ci) of Ir–192. The event occurred after the dosimetrist made an error while inputting data into the afterloader's dosimetry software program. Although the dosimetrist appropriately clicked the ''catheter tip'' selection, the dosimetrist did not highlight and choose ''catheter tip.'' Therefore, the computer cursor stayed on the ''connector end'' selection. This resulted in a 2-cm positioning error, which caused the source to stop short of the target so that the total prescribed dose was not delivered. The patient was informed of the event, and the remaining dose was delivered by external beam therapy. According to the Radiation Oncologist, no detrimental effects are expected. The patient was self-referred for the therapeutic treatment.

Cause(s)—This event was attributed to operator error.

Actions Taken To Prevent Recurrence

Actions taken to prevent recurrence include implementing procedures to add a visual check and documentation that the treatment plan was administered with the source position calculated from the tip end of the catheter or needle. This procedure will be added to the pre-treatment checklist, which is performed and signed by the radiation oncologist, physicist, and dosimetrist. The checklist will be performed prior to initial treatment and at treatment plan changes, and will be part of the patients' permanent records. Also, the licensee contacted the device's manufacturer regarding the confusion associated with the default orientation in the software program, and requested an adjustment to the program. The manufacturer stated that this could not be done at this time, but is discussing the issue. The manufacturer offered additional training to the licensee's employees, and the licensee is sending its employees to the training.

State Agency—The State accepted the licensee's implementation of new procedures and its corrective actions as appropriate.

This event is closed for the purpose of this report.

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AS 04–04 Diagnostic Medical Event at Northeast Alabama Regional Medical Center, Alabama

Date and Place—August 10, 2004; Northeast Alabama Regional Medical Center; Montgomery, Alabama.

Nature and Probable Consequences—A patient received 111 MBq (3,000 μCi) of I–131 instead of the prescribed dose of 0.93 MBq (25 μCi). The licensee discovered the event on August 12, 2004, when the patient returned for the whole body scan 48 hours later. The referring physician had requested a diagnostic I–131 scan to assess a thyroid nodule, which requires 0.93 MBq (25 μCi). The technologist misunderstood the order by assuming that the referring physician wanted a whole body scan to assess thyroid cancer, and administered 111 MBq (3,000 μCi) of I–131 without

requesting clarification or approval from the authorized users.

Two authorized users determined that the patient could become hypothyroid. Therefore, patient followup assessments included thyroid profiles and thyroid uptakes to determine thyroid function. The patient and the referring physician were informed of the event.

Cause(s)—This event was attributed to human error. The technologist misunderstood the treatment ordered by the referring physician and failed to verify the written directive.

Actions Taken To Prevent Recurrence

Licensee—The licensee implemented corrective measures to ensure that authorized users approve all procedures involving the administration of radiopharmaceuticals and re-instructed nuclear medicine personnel.

State Agency—The State conducted an inspection.

This event is closed for the purpose of this report.

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AS 04–05 Occupational Exposure at Palmetto Health and Baptist Hospital in Columbia, South Carolina

Date and Place—March 17, 2004; Palmetto Health and Baptist Hospital; Columbia, South Carolina.

Nature and Probable Consequences—The licensee reported that a pharmacist trainee received an extremity exposure resulting in a shallow dose equivalent to the hand of 7,420 mSv (742 rem), a deep dose equivalent to the hand of 70 mSv (7.02 rem), and a thyroid dose of 0.9 mSv (0.09 rem). The exposures occurred when a spill took place while compounding I–131 from a vial. The pharmacist trainee cleaned up the area, decontaminated his skin, and reported the spill to the imaging manager the following day. The imaging manager conducted a second survey of the area, which showed that no contamination remained from the spill. The pharmacist trainee completed a spill report but did not reveal his contamination in the report. The pharmacist trainee left for vacation and 11 days later, after his return, informed the Radiation Safety Officer (RSO) that his forearm had been contaminated during the I–131 spill. Immediate actions were taken to determine whether any contamination still remained on his arm. Elevated levels were discovered on his right forearm and left fingertips. The appropriate hospital/nuclear medicine personnel were notified. The pharmacist trainee was suspended from any and all duties involving radioactive material.

Cause(s)—This event occurred as a result of human error and failure to follow established procedures. An initial crimp failure on the vial may also have contributed to the spill.

Actions Taken To Prevent Recurrence

Licensee—The licensee retrained all staff in spill procedures, emphasizing proper notification of supervisors. Additionally, at the prompting of the licensee, the vial supplier reevaluated the process of ensuring that each crimp is acceptable for shipment, although the supplier believed it was more likely an isolated incident.

State Agency—The State agency conducted inspections and cited the licensee for violations of regulations for controlling radiation.

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AS 04–06 Gamma Stereotactic Radiosurgery (Gamma Knife) Medical Event at Radiosurgical Center of Memphis in Memphis, Tennessee

Date and Place—January 24, 2003; Radiosurgical Center of Memphis; Memphis, Tennessee. This event was not determined to be an AO until the preparation of the FY2004 report.

Nature and Probable Consequences—The licensee reported that a patient received 27 Gy (2,700 rads) to a brain metastasis instead of the intended 18 Gy (1,800 rads) during gamma knife treatment. The physicist did not determine that an error had occurred until the treatment was complete. The RSO determined that one of the four brain metastases received greater than the prescribed dose. The other three brain metastases received the prescribed dose. The tumor that received the incorrect dose was at the periphery of the brain next to the skull in a non-critical area so that much of the extra dose was delivered to the space between the brain and the skull. The cause of the incident was that a 14-millimeter (mm) (.55-inch) collimator helmet was used instead of the prescribed 8-mm (.31 inch) collimator helmet. The personnel setting up the treatment neglected to change the helmet. The tumor that received the unintended dose was located at the periphery of the brain, adjacent to the skull. Because most of the unintended dose was delivered to a non-critical space, between the brain and skull, the additional radiation exposure should have no significant effect on the patient.

The referring physician was notified of the event and informed the patient's family of the unintended dose.

Cause(s)—The cause was human error, in that the event resulted from use of the wrong collimator helmet.

Actions Taken To Prevent Recurrence

Licensee—The licensee established a new procedure to require the physician, physicist, and nurse to sign off on the treatment time, helmet size, and position before each shot. Also, new labels identifying the size of the helmet were attached to each of the four helmets. These labels can be seen by personnel via the TV monitor located at the control panel outside the treatment room. The physician will verify the correct size before the control panel button is pushed to start the treatment.

State Agency—The State reviewed and approved the licensee's new procedures.

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AS 04–07 Strontium-90 Eye Applicator Brachytherapy Medical Event at St. Francis Hospital in Memphis, Tennessee

Date and Place—March 25, 2004; St. Francis Hospital; Memphis, Tennessee.

Nature and Probable Consequences—A 79-year-old patient was prescribed radiation treatment for pterygium (an eye abnormality). The patient was to receive 20 Gy (2,000 rads), but instead received 70 Gy (7,059 rads). The prescribed dose was to be administered via a Sr-90 radioactive source with an activity of 3.7 GBq (100 mCi) for a duration of 42.5 seconds. However, the manual timer was incapable of being set for fractions of a second and interpreted the entry to be 4 minutes and 25 seconds. During the treatment, the physician questioned the treatment time and terminated the treatment after 2 minutes and 30 seconds. The Radiation Oncologist concluded that the maximum possible dose delivered to the sclera was well below the sclera tolerance dose and that the optic nerve and retina did not receive any meaningful dose. The patient and the referring physician were notified of the event.

Cause(s)—The wrong treatment time was programmed for the patient's eye treatment.

Actions Taken To Prevent Recurrence

Licensee—The licensee updated its procedures, which require use of an additional person to operate a second timer during brachytherapy eye treatment.

State Agency—The Tennessee Department of Radiological Health conducted an onsite inspection on March 29, 2004. The State investigated, reviewed, and approved the licensee's new procedures.

This event is considered closed for the purpose of this report.

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AS 04–08 Therapeutic Medical Event at Southern Regional Medical Center in Riverdale, Georgia

Date and Place—July 1, 2004; Southern Regional Medical Center; Riverdale, Georgia.

Nature and Probable Consequences—The licensee informed the Georgia Department of Natural Resources (GDNR) that a patient received 3.7 GBq (100 mCi) of I–131 instead of the prescribed dose of 0.64 GBq (17.3 mCi). Three patients were scheduled for I–131 treatments on the same day. An inpatient was scheduled to receive 3.7 GBq (100 mCi), and two outpatients were scheduled to receive less than 1.2 GBq (33 mCi). One of the outpatients was mistakenly injected with the 3.7 GBq (100 mCi) dose intended for the inpatient and was also allowed to leave the facility without receiving proper instructions. The licensee did not discover the error until after the patient had left the facility with her children. The authorized user who signed the written directive was at the facility when the dose was administered. The temporary RSO was at South Fulton Hospital, but was notified of the event. The patient and referring physician were immediately notified of the event by the licensee. The GDNR received a report from the licensee's medical physicist consultant estimating the dose to the patient's children was 0.5 mSv (0.05 rem), with a maximum possible dose of 1.0 mSv (0.1 rem). The radiation should not have any effects on the patient's children or other individuals. The medical significance to the patient is the possibility of developing hypothyroidism which would require thyroid medication.

Cause(s)—This event was attributed to human error. The wrong patient was administered a therapeutic dose of I–131 that was prescribed for someone else.

Actions Taken To Prevent Recurrence

Licensee—The licensee discussed the incident with all technicians who prepare and administer I–131, revised nuclear medicine protocols pertaining to the therapeutic use of I–131 and patient instructions, and revised procedures to incorporate better practices to prevent this type of error from recurring.

State Agency—The State agency reviewed and approved the corrective actions that the licensee implemented to prevent recurrence.

This event is considered closed for the purpose of this report.

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AS 04–09 Intravascular Brachytherapy Medical Event at Ireland Cancer Center in Middleburg Heights, Ohio.

Date and Place—December 22, 2003; Ireland Cancer Center; Middleburg Heights, Ohio.

Nature and Probable Consequences—The licensee reported that a patient received a radiation dose to an unintended site 3 cm proximal to the prescribed treatment site during an intravascular brachytherapy (IVB) treatment procedure. The dose delivered to the unintended site was approximately 18.40 Gy (1,840 rads). The event involved an IVB device that used a 3.5-mm catheter and a source train that contained Sr-90 with an activity of 2.0 GBq (53.8 mCi). The source train traveled to a location approximately 3 cm proximal to the intended treatment site. It was determined that there was a kink in the delivery catheter, which kept the source train from traveling to the correct site. The kink was not substantial enough to affect the flow of sterile water used to send and retrieve the source train. The kink was discovered the following day during medical physics quality checks. The referring physician and patient were notified of the event. According to the licensee, no adverse effects are expected.

Cause(s)—The cause of the event was determined to be a kink in the delivery catheter, which kept the source train from traveling to the correct site.

Actions Taken To Prevent Recurrence

Licensee—Corrective actions incorporated by the licensee included additional films taken during procedures to verify the placement of the catheter. When there is any doubt of the placement of the catheter, the treatment will be aborted. The treatment team will then evaluate whether to attempt treatment with a different catheter.

State Agency—The Ohio Department of Health conducted an investigation, reviewed the licensee's corrective actions, and found them adequate to prevent recurrence.

This event is considered closed for the purpose of this report.

* * * * *

AS 04–10 Intravascular Brachytherapy Medical Event at Swedish Medical Center in Seattle, Washington

Date and Place—November 18, 2003; Swedish Medical Center; Seattle, Washington.

Nature and Probable Consequences—A patient undergoing an intravascular brachytherapy (IVB) treatment for coronary restenosis received 13.78 Gy (1,378 rads) to an unintended site (healthy tissue). The licensee reported that the source train was partially inserted into a small artery, and the routing did not follow a direct path. When the difficulty occurred, the source train had been partially inserted 65 mm proximal to the intended site. The source train contained a total activity of 2.91 GBq (78.56 mCi). A 143-second exposure time elapsed before the cardiologist withdrew the source train, even though the licensee's procedure requires sources to be immediately withdrawn once a problem occurs. The delay occurred as the cardiologist first worked to fully insert the source train and then discussed correcting the problem with the oncologist. The catheter was examined, and there were no kinks or bends. It was determined that there were no failures of the IVB device. It was suspected that the pressure from the artery and the tortuous route to the site caused a contraction of a portion of the catheter and resulted in the seeds becoming stuck at a particular location. The cardiologist was suspended from licensed activities until the details of the event were fully understood. According to the licensee, no adverse health effects are expected. The patient and the patient's referring physician were notified of the event.

Cause or Causes—It is suspected that the pressure from the small artery and the tortuous route to the site caused a contraction of a portion of the source train and resulted in the seeds becoming stuck at a particular location.

Actions Taken To Prevent Recurrence

Licensee—Corrective actions included reemphasizing the importance of adhering to established procedures and protocols before administering radiopharmaceuticals, and ensuring that all staff completed refresher training.

State Agency—The State reviewed and approved the corrective actions taken by the licensee and will follow-up at the next inspection.

This event is closed for the purpose of this report.

* * * * *

AS 04–11 Diagnostic Medical Event at Swedish Medical Center in Seattle, Washington

Date and Place—September, 24, 2004; Swedish Medical Center; Seattle, Washington.

Nature and Probable Consequences—The licensee reported that a patient received 190.9 MBq (5.16 mCi) of I–131, instead of the prescribed 74 MBq (2 mCi) for a post thyroid treatment follow-up scan. The prescribing physician

realized that the error occurred on September 27, 2004, when the patient underwent the scan. A viable follow-up scan was performed even though the error occurred. The referring physician notified the patient of the error on September 27, 2004. The nuclear medicine physician indicated there would be no negative health effects from this administration.

Cause or Causes—The licensee stated that human error led to procedural checks not being performed prior to the administration.

Actions Taken To Prevent Recurrence

Licensee—Corrective actions included re-emphasis on the importance of adhering to established procedures and protocols prior to the administration of radiopharmaceuticals and the completion of staff refresher training.

State Agency—The State reviewed and approved the corrective actions taken by the licensee and will follow-up at the next inspection.

This event is considered closed for the purpose of this report.

* * * * *

AS 04–12 Therapeutic Medical Event at University of California at Los Angeles Harbor Medical Center in Torrance, California

Date and Place—June 7, 2002; Los Angeles County Harbor University of California at Los Angeles (UCLA) Medical Center; Torrance, California. This event was not identified as an AO until the preparation of the FY 2004 report.

Nature and Probable Consequences—A patient receiving treatment for thyroid ablation was administered a dose of 4.74 GBq (128 mCi) of I–131 instead of the prescribed dose of 1.18 GBq (32 mCi) of I–131.

On June 7, 2002, five patients were scheduled to be treated with I–131. Five vials containing I–131 arrived from the radiopharmacy and were properly labeled with the patients' names. The nuclear medicine technologist incorrectly thought that the name on the 4.74 GBq (128mCi) vial did not match any of the patient's names scheduled for treatment that day. Assuming that this vial was incorrectly labeled, the 4.74 GBq (128 mCi) dosage was administered to the patient for whom the technologist thought the dose was intended. However, the technologist failed to verify whether any of the remaining four dosages were labeled for that patient. In fact, a vial was correctly labeled as prepared for that patient.

The authorized user was present during the administration to supervise the administration of the radiopharmaceutical, and to verify that the correct radiopharmaceutical and dosage were administered. The authorized user did not perform an independent verification, but instead assumed that the nuclear medicine technologist had verified that the dosage was correct. The error was discovered about 5 hours later, when the patient scheduled to receive the 4.74 GBq (128 mCi) dosage arrived at the medical center for treatment. The patient and the referring physician were notified. The authorized user went to the home of the patient who received the inadvertent administration and verified that appropriate radiation safety precautions were in place. The patient's treatment plans were modified to accommodate the larger dosage. The authorized user stated that the dosage was intended to ablate the thyroid and render the patient hypothyroid, and that was accomplished with the larger dose. He further stated the patient is doing well, with no complications.

Cause(s)—This medical event was caused by human error which resulted in the licensee's failure to follow proper policies and procedures and verify the prescribed dosage for a specific patient.

Actions Taken To Prevent Recurrence

Licensee—The licensee re-instructed all nuclear medicine personnel on the importance of following the division's policies and procedures and the use of a third party to check the prescription dose and patient identification before administration. Additionally, the RSO will review all I–131 therapy documents and administrations.

State Agency—The State cited the licensee for failure to provide written notification to the referring physician and the patient within 15 days after the occurrence of the medical event. The State has reviewed and approved the licensee's corrective actions.

* * * * *

AS 04–13 Diagnostic Medical Event at University Hospital in Cincinnati, Ohio

Date and Place—March 10, 2004; University Hospital; Cincinnati, Ohio.

Nature and Probable Consequences—The licensee reported that a patient was given 74 MBq (2,000–Ci) of I–131 for a thyroid cancer work-up instead of the prescribed dose of 7.4 MBq (200–Ci) of I–123 for a thyroid uptake scan. The patient scheduled to receive the I–123 dose responded affirmatively to being the patient that was to receive the I–131 dose. The technologist did not follow procedures regarding proper identification of the patient, which requires two separate methods for verifying patient identification. A follow-up scan revealed the patient does have hypothyroidism, and as a result, the 74 MBq (2,000–Ci) of I–131 would have been prescribed based on the scan results. The referring physician and patient were notified. No adverse health effects are expected.

Cause or Causes—The technologist failed to follow established procedures.

Actions Taken to Prevent Recurrence

Licensee—The licensee disciplined the technologist in accordance with hospital policy and reiterated to all technologists the need to thoroughly check patient identification using two approved methods. Additionally, the Radiation Safety Committee modified the Quality Management Program to require a photo as one method of verifying patient identification.

State Agency—The Ohio Department of Health conducted an investigation of the event on May 11, 2004, and reviewed the licensee's corrective actions. The State found the licensee's corrective actions adequate to prevent a recurrence of the event.

This event is closed for the purpose of this report.

Dated at Rockville, Maryland this 18th day of April 2005.

For the Nuclear Regulatory Commission

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 05–8173 Filed 4–29–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Report for Comment: ''Consideration of Geochemical Issues in Groundwater Restoration at Uranium In-Situ Leach Mining Facilities,'' NUREG/CR–6870

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability and request for comments.

Background: Some mining processes use fluids to dissolve (or leach) a mineral without the need to remove physically the ore containing the mineral from an ore deposit in the ground. In general, these ''in-situ'' leach mining operations at uranium mines are considerably more environmentally benign than traditional mining and milling of uranium ore. Nonetheless, the use of leaching fluids to mine uranium may contaminate the groundwater aquifer in and around the region from which the uranium is extracted. The U.S. Nuclear Regulatory Commission (NRC) requires licensees to restore the

aquifer to established water-quality standards following the cessation of in-situ leach mining operations.

The NRC also requires licensees to ensure that sufficient funds will be available to cover the cost of decommissioning their facilities. For these uranium mines, restoration generally consists of pumping specially treated water into the affected aquifer and removing the displaced water—and thereby the undesirable contaminants—from the system. Because groundwater restoration can represent approximately 40 percent of the cost of decommissioning a uranium leach mining facility, a good estimate of the necessary volume of treatment water is important to estimate the cost of decommissioning accurately.

The subject report, prepared for the NRC by the U.S. Geological Survey, summarizes the application of a geochemical model to the restoration process to estimate the degree to which a licensee has decontaminated a site where a leach mining process has been used. Toward that end, this report analyzes the respective amounts of water and chemical additives pumped into the mined regions to remove and neutralize the residual contamination using 10 different restoration strategies. The analyses show that strategies that used hydrogen sulfide in systems with low natural oxygen content provided the best results. On the basis of those findings, this report also summarizes the conditions under which various restoration strategies will prove successful. This, in turn, will allow more accurate estimates of restoration and decommissioning costs.

The subject report will be useful for licensees and State regulators overseeing uranium leach mining facilities, who need to estimate the volume of treatment water needed to decontaminate those facilities.

Solicitation of Comments: The NRC seeks comments on the report and is especially interested in comments on the utility and feasibility of the modeling techniques described in the report.

Comment Period: The NRC will consider all written comments received before June 17, 2005. Comments received after July 17, 2005, will be considered if time permits. Comments should be addressed to the contact listed below.

Availability: An electronic version of the report is available in Adobe Portable Document Format at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/contract/cr6870/cr6870.pdf* and can be read with Adobe Acrobat Reader software, available at no cost from *http://www.adobe.com*. Hard and electronic copies are available from the contact listed below.

FOR FURTHER INFORMATION CONTACT: Dr. John D. Randall, Mail Stop T9C34, U.S. Nuclear Regulatory Commission, 11545 Rockville Pike, Rockville, MD 20852, telephone (301) 415–6192, e-mail *jdr@nrc.gov*.

Dated at Rockville, Maryland, this 20th day of April 2005.

For the Nuclear Regulatory Commission.

Cheryl A. Trottier,

Chief, Radiation Protection, Environmental Risk & Waste Management Branch, Division of Systems Analysis and Regulatory Effectiveness, Office of Nuclear Regulatory Research.

[FR Doc. E5–2073 Filed 4–29–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Availability of Interagency Steering Committee on Radiation Standards' Reports on Radioactivity in Sewage Sludge and Ash

AGENCIES: U.S. Nuclear Regulatory Commission and U.S. Environmental Protection Agency.

ACTION: Announce the issuance of two final reports concerning radioactivity in sewage sludge and ash.

SUMMARY: This **Federal Register** notice announces the availability of two final reports, prepared by the Sewage Sludge Subcommittee of the Interagency Steering Committee on Radiation Standards (ISCORS), addressing radioactivity in sewage sludge and ash at publicly owned treatment works (POTWs). The first report, ''ISCORS Assessment of Radioactivity in Sewage Sludge: Modeling to Assess Radiation Doses,'' assesses the potential levels of radiation doses to people from radioactivity in sewage sludge, by modeling the transport of radioactivity from sludge into the local environment. The report also provides a complete description and justification of the dose assessment methodology. The second report, ''ISCORS Assessment of Radioactivity in Sewage Sludge: Recommendations on Management of Radioactive Materials in Sewage Sludge and Ash at Publicly Owned Treatment Works,'' is written for POTW operators. This report is intended to (1) alert POTW operators and others to the possibility of radioactive materials concentrating in sewage sludge and incinerator ash, (2) inform operators how to determine if there are elevated levels of radioactivity in their sludge, and (3) assist POTW operators in identifying further actions that may be taken to reduce potential radiation exposures from sludge and ash.

SUPPLEMENTARY INFORMATION:

Background

The purpose of ISCORS is to foster early resolution and coordination of regulatory issues associated with radiation standards. Agencies represented on ISCORS include the U.S. Nuclear Regulatory Commission (NRC), the U.S. Environmental Protection Agency (EPA), the U.S. Department of Energy, the U.S. Department of Defense, the U.S. Department of Transportation, the Occupational Safety and Health Administration of the U.S. Department of Labor, the U.S. Department of Health and Human Services, and the Department of Homeland Security. The Office of Science and Technology Policy, the Office of Management and Budget, and State representatives may be observers at meetings. The objectives of ISCORS are to: (1) Facilitate a consensus on allowable levels of radiation risk to the public and workers; (2) promote consistent and scientifically sound risk assessment and risk management approaches in setting and implementing standards for occupational and public protection from ionizing radiation; (3) promote completeness and coherence of Federal standards for radiation protection; and (4) identify interagency radiation protection issues and coordinate their resolution.

Discussion: There have been a number of well-publicized cases of radionuclides discovered in sewage sludge and ash, and some of these have led to expensive cleanup projects. These incidents made clear the need for a comprehensive determination of the prevalence of radionuclides in sewage sludge and ash at POTWs around the country, and of the level of potential threat posed to human health and the environment by various levels of such materials.

In response to this need, ISCORS formed a Sewage Sludge Subcommittee to coordinate, evaluate, and resolve issues regarding radioactive materials in sewage sludge and ash. To estimate the amounts of radionuclides that actually occur in sewage sludge and ash, the Subcommittee performed a survey of radioactivity in sludge and ash across the United States. The final report of the survey effort, ''ISCORS Assessment of Radioactivity in Sewage Sludge: Radiological Survey Results and Analysis'' (ISCORS Technical Report 2003–02, NUREG–1775, EPA 832–R–03–002, DOE/EH–0669), was issued in

November 2003 and is available on the ISCORS Web site at *http://www.iscors.org.*

The Subcommittee also undertook a dose assessment to help assess the potential threat that these materials may pose to human health. The first final report that we are issuing, ''ISCORS Assessment of Radioactivity in Sewage Sludge: Modeling to Assess Radiation Doses'' (ISCORS Technical Report 2004–03, NUREG–1783, EPA 832–R–03–002A, DOE/EH–0670), describes the methodology and results of the dose modeling effort. The radionuclides considered were based on the results of the ISCORS survey, and include manmade and naturally-occurring isotopes. The general approach used in the report is a standard one that consists essentially of two steps. First, seven scenarios were constructed to represent typical situations in which members of the public or POTW workers are likely to be exposed to sludge. Second, assuming a unit specific activity of a radionuclide in dry sludge, environmental transport models were employed to obtain doses. A draft of this report was published for peer review and public comment in November 2003. Changes were made, as appropriate, to address comments in developing the final report.

The other major task of the Subcommittee was to develop recommendations for POTW operators. The second final report being issued, ''ISCORS Assessment of Radioactivity in Sewage Sludge: Recommendations on Management of Radioactive Materials in Sewage Sludge and Ash at Publicly Owned Treatment Works'' (ISCORS Technical Report 2004–04, DOE/EH–0668, EPA 832-R–03–002B), is for use by POTW operators in evaluating whether the presence of radioactive materials in sewage sludge could pose a threat to the health and safety of POTW workers or the general public. A draft of this report was published for public comment in November 2003. Changes were made, as appropriate, to address comments in developing the final report.

Based on the survey and dose modeling, ISCORS concludes that the levels of radioactive materials detected in sewage sludge and ash in the ISCORS survey indicate that, at most POTWs, radiation exposures to workers or to the general public are not likely to be a concern.

ADDRESSES: The two ISCORS reports on radioactivity in sewage sludge and ash being issued are available electronically from the ISCORS Web page at: *http://www.iscors.org.* Hard copies may also be obtained by calling or writing to Duane Schmidt, U.S. Nuclear Regulatory Commission, NMSS/DWMEP/DCD, MS: T–7E18, Washington, DC 20555–0001, (301) 415–6919, or *dws2@nrc.gov;* or to Robert Bastian, U.S. Environmental Protection Agency, Office of Wastewater Management (4204M), Rm. 7220B EPA EAST, 1200 Pennsylvania Ave., NW. Washington, DC 20460, (202) 564–0653, or *bastian.robert@epa.gov.*

FOR FURTHER INFORMATION, CONTACT: Duane Schmidt, U.S. Nuclear Regulatory Commission, NMSS/DWMEP/DCD, MS: T–7E18, Washington, DC 20555, telephone (301) 415–6919, fax (301) 415–5398, e-mail *dws2@nrc.gov;* or Robert Bastian, U.S. Environmental Protection Agency, Office of Wastewater Management (4204M), Rm. 7220B EPA EAST, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone (202) 564–0653, fax (202) 501–2397, e-mail *bastian.robert@epa.gov.*

Dated at Rockville, Maryland, this 22nd day of April, 2005.

For The U.S. Nuclear Regulatory Commission.

Scott Flanders,

Deputy Director, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E5–2071 Filed 4–29–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Report for Comment: ''Documentation and Applications of the Reactive Geochemical Transport Model RATEQ,'' NUREG/CR–6871

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability and request for comments.

Background: The U.S. Nuclear Regulatory Commission (NRC) uses environmental models to evaluate the potential release of radionuclides from NRC-licensed sites. In doing so, the NRC recognizes that, at many sites, groundwater-related pathways could contribute significantly to the potential dose received by members of the public. Consequently, consistent with its mission to protect the health and safety of the public and the environment, the NRC uses contaminant transport models to predict the locations and concentrations of radionuclides in soil as a function of time. Through this notice, the NRC is seeking comment on documentation of a subsurface transport model developed for the NRC by the U.S. Geological Survey (USGS) for realistic transport modeling at sites with complex chemical environments.

Because many radionuclides temporarily attach, or adsorb, to the surfaces of soil particles, their mobility is reduced compared to that of compounds that move with the groundwater without interacting with solid surfaces. As a result, most subsurface-transport models used by the NRC and its licensees estimate the effects of the anticipated interactions between radionuclides and solids in the ground. Toward that end, these subsurface-transport models use a ''distribution coefficient,'' which is assumed to be constant and reflects the proportion of radionuclide in the groundwater compared to the radionuclide associated with the solids in the ground. These distribution coefficients are widely used, and consequently, the relevant literature documents ranges of their values for various soil types and radionuclides. However, the documented ranges can be very large because the chemical reactions that cause radionuclides to attach to solids are very sensitive to water chemistry and soil mineralogy. As a result, uncertainties in the parameters used to characterize the adsorption of radionuclides in soils have been identified as a major source of uncertainty in decommissioning, uranium recovery, and radioactive waste disposal cases evaluated by the NRC.

Surface-complexation and ion-exchange models offer a more realistic approach to considering soil-radionuclide interactions in performance-assessment models. These models can also account for variable chemical environments that might affect such interactions. The subject report, prepared for the NRC by the USGS, describes the theory, implementation, and examples of use of the RATEQ computer code, which simulates radionuclide transport in soil and allows the use of surface-complexation and ion-exchange models to calculate distribution coefficients based on actual site chemistry.

The RATEQ code will help the NRC staff define realistic site-specific ranges of the distribution coefficient values used to evaluate NRC-licensed sites. In site-remediation cases, such as restoration of the groundwater aquifer in and around uranium in-situ leach mining facilities, the RATEQ code can aid in the estimation of restoration costs by estimating the volume of treatment water needed to restore sites to acceptable environmental conditions.

Solicitation of Comments: The NRC seeks comments on the report and is especially interested in comments on the value of the report to users who run the RATEQ code and are familiar with the types of complex chemical environments that complicate many remediation projects.

Comment Period: The NRC will consider all written comments received before August 12, 2005. Comments received after August 12, 2005, will be considered if time permits. Comments should be addressed to the contact listed below.

Availability: An electronic version of the report is available in Adobe Portable Document Format at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/contract/cr6871/cr6871.pdf* and can be read with Adobe Acrobat Reader software, available at no cost from *http://www.adobe.com*. The report and the computer files for the test cases discussed therein are available at *http://wwwrcamnl.wr.usgs.gov/rtm*. Hard and electronic copies of the report are available from the contact listed below.

FOR FURTHER INFORMATION CONTACT: Dr. John D. Randall, Mail Stop T9C34, U.S. Nuclear Regulatory Commission, 11545 Rockville Pike, Rockville, MD 20852, telephone (301) 415–6192, e-mail *jdr@nrc.gov*.

Dated at Rockville, Maryland, this 20th day of April 2005.

For the Nuclear Regulatory Commission.

Cheryl A. Trottier,

Chief, Radiation Protection, Environmental Risk & Waste Management Branch, Division of Systems Analysis and Regulatory Effectiveness, Office of Nuclear Regulatory Research.

[FR Doc. E5–2072 Filed 4–29–05; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

United States Postal Service Board of Governors; Sunshine Act Meeting

TIMES AND DATES: 1 p.m., Tuesday, May 10, 2005; and 8:30 a.m., Wednesday, May 11, 2005.

PLACE: Atlanta, Georgia, at the Hyatt Regency Hotel, 265 Peachtree Street, NE., in the Hong Kong/Cairo Rooms.

STATUS: May 10—1 p.m. (Closed); May 11—8:30 a.m. (Open).

MATTERS TO BE CONSIDERED:

Tuesday, May 10—1 p.m. (Closed)

1. Postal Rate Commission Opinion and Recommended Decision in Experimental Premium Forwarding Service, Docket No. MC2005–1.
2. Strategic Planning.
3. Financial Update.
4. Personnel Matters and Compensation Issues.

Wednesday, May 11—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, April 12, 2005.
2. Remarks of the Postmaster General/Chief Executive Officer.
3. Committee Reports and Audit and Finance Committee Charter.
4. Transformation.
5. Quarterly Report on Service Performance.
6. Quarterly Report on Financial Performance.
7. Atlanta District Report.
8. Tentative Agenda for the June 14, 2005, meeting in Washington, DC.

CONTACT FOR FURTHER INFORMATION: William T. Johnstone, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

William T. Johnstone,

Secretary.

[FR Doc. 05–8820 Filed 4–28–05; 2:35 pm]

BILLING CODE 7710–12–M

PRESIDIO TRUST

Notice of Public Meeting

AGENCY: The Presidio Trust.

ACTION: Notice of public meeting.

SUMMARY: In accordance with § 103(c)(6) of the Presidio Trust Act, 16 U.S.C. § 460bb note, Title I of Public Law 104–333, 110 Stat. 4097, as amended, and in accordance with the Presidio Trust's bylaws, notice is hereby given that a public meeting of the Presidio Trust Board of Directors will be held commencing 5 p.m. on Wednesday, May 18, 2005, at the Officers' Club, 50 Moraga Avenue, Presidio of San Francisco, California. The Presidio Trust was created by Congress in 1996 to manage approximately eighty percent of the former U.S. Army base known as the Presidio, in San Francisco, California.

The purposes of this meeting are to provide an Executive Director's Report, to provide project updates, and to receive public comment in accordance with the Trust's Public Outreach Policy.

Accommodation: Individuals requiring special accommodation at this meeting, such as needing a sign language interpreter, should contact Mollie Matull at (415) 561–5300 prior to May 9, 2005.

FOR FURTHER INFORMATION CONTACT: Karen Cook, General Counsel, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, California 94129–0052, Telephone: (415) 561–5300.

Dated: April 25, 2005.

Karen A. Cook,

General Counsel.

[FR Doc. 05–8652 Filed 4–29–05; 8:45 am]

BILLING CODE 4310–4R–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Regulation S–T, OMB Control No. 3235–0424, SEC File No. 270–375.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Regulation S–T (OMB Control No. 3235–0375; SEC File No. 270–424) sets forth the filing requirements relating to the submission of documents in electronic format on the Electronic Data Gathering Analysis and Retrieval (''EDGAR'') system. Regulation S–T is only assigned one burden hour for administrative convenience because it does not directly impose any information collection requirements.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and

Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Dated: April 25, 2005.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–2086 Filed 4–29–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 236, OMB Control No. 3235–0095, SEC File No. 270–118.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 236 under the Securities Act of 1933 (''Securities Act'') requires issuers choosing to rely on an exemption from Securities Act registration for the issuance of fractional shares, scrip certificates or order forms, in connection with a stock dividend, stock split, reverse stock split, conversion, merger or similar transaction to furnish specified information to the Commission in writing at least ten days prior to the offering. The information is needed to provide public notice that an issuer is relying on the exemption. Public companies are the likely respondents. An estimated ten submissions are made pursuant to Rule 236 annually, resulting in an estimated annual total burden of 15 hours.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: April 25, 2005.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–2087 Filed 4–29–05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51605; File No. SR–NASD–2005–004]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Annual Compliance Meetings

April 25, 2005.

On January 13, 2005, the National Association of Securities Dealers (''NASD'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] to clarify that the system that each member is required to establish and maintain to supervise the activities of registered representatives and associated persons also applies to registered principals. On March 1, 2005, NASD filed Amendment No. 1 to the proposed rule change.[3] On March 9, 2005, NASD filed Amendment No. 2 to the proposed rule change.[4] The proposed rule change, as amended, was published for comment in the **Federal Register** on March 21, 2005.[5] The Commission received two comment letters on the proposal, as amended.[6] On April 22, 2005, the NASD filed a response to the comment letters.[7] This order approves the proposed rule change, as amended.

I. Description of Proposed Rule Change

NASD proposes to amend NASD Rule 3010(a)(7) to require that registered principals, in addition to registered representatives, attend an annual compliance meeting. NASD Rule 3010(a)(7) currently requires the attendance of registered representatives at annual compliance meetings, but it does not require the attendance of registered principals. NASD believes that registered principals also should be required to attend such meetings given the supervisory and compliance-related functions that principals perform and that the primary purpose of these meetings is to discuss compliance issues and keep registered persons current on changing compliance requirements or changes in the firm. Accordingly, NASD proposes to amend NASD Rule 3010(a)(7) to require that all registered principals, in addition to registered representatives, attend an annual compliance meeting in accordance with the Rule.

Further, although registered principals are included in the definition of associated person [8] and thus are included in the scope of NASD Rule 3010(a), registered principals are not specifically listed in NASD Rule 3010(a). Therefore, NASD proposes a technical amendment to NASD Rule 3010(a) to clarify that each member is required to establish and maintain a system to supervise the activities of each registered representative, registered principal, and associated person.

NASD represents that the proposal clarifies that this provision applies to registered representatives and registered principals, as well as all other associated persons. To be consistent with this proposed amendment to NASD Rule 3010(a), NASD is proposing similar changes to NASD Rules 3010(a)(3) and 3010(b)(1) to clarify that the scope of these rules extends to registered representatives and registered principals, as well as other associated persons.[9] NASD is also proposing to replace a reference to ''Association'' with ''NASD'' in the text of NASD Rule 3010(b)(1) to reflect the fact that NASD no longer refers to itself using its full

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the NASD further clarified that the scope of NASD Rules 3010(a), 3010(a)(3), and 3010(b)(1), specifically extends to registered representatives and registered principals, as well as other associated persons.

[4] In Amendment No. 2, the NASD filed a partial amendment to the proposed rule change to remove the underlining from the term ''applicable NASD Rules'' in NASD Rule 3010(a), as it is part of the existing rule text.

[5] *See* Securities Exchange Act Release No. 51368 (March 14, 2005), 70 FR 13560 (March 21, 2005).

[6] *See* letters from Jed Bandes, dated April 7, 2005 (''Bandes Letter'') and William F. Marshall, President, First Winston Securities, Inc., dated April 11, 2005 (''First Winston Letter'').

[7] *See* letter to Katherine A. England, Assistant Director, Division of Market Regulation from Afshin Atabaki, Counsel, NASD, dated April 22, 2005 (''NASD Response Letter'').

[8] *See* NASD Rule 1011(b).

[9] *See* Amendment No. 1, *supra* note 3.

corporate name, ''Association,'' or ''the NASD.''

II. Summary of Comment and NASD's Response

The Commission received two comment letters on the proposed rule change that opposed the adoption of the proposal in its current form.[10]

Specifically, one commenter stated that the proposed rule change requiring principals to attend compliance meetings at the NASD was ''bureaucratic excess and self indulgence'' as well as difficult to comply with for handicapped individuals.[11] A second commenter stated that the NASD's proposal would ''impose an undue hardship both in time and monetarily'' for small firms.[12]

NASD responded by stating that the commenters mischaracterized the proposal. NASD explained that the proposal requires the attendance of registered principals (in addition to registered representatives) at annual compliance meetings that are conducted by their respective member firms, not the NASD. Furthermore, NASD responded to the commenters' concerns by noting that the rule itself states that members are provided with substantial flexibility in implementing the compliance meeting requirement. NASD further stated that the proposal expressly allows the compliance meeting to be conducted at a principal's place of business and outside of regular business hours. Additionally the meeting may be conducted by video conference, interactive classroom setting, telephone or other interactive means provided appropriate safeguards are in place.[13]

III. Discussion

The Commission has carefully reviewed the proposed rule change, the comment letters, and NASD's response and finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[14] In particular, the Commission finds that the proposed rule change, as amended, is consistent with Section 15A.[15] Specifically, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act because it is designed to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[16]

The NASD's response to the comments adequately addresses the concerns raised. Moreover, the Commission believes that requiring registered principals to attend an interview or meeting at least annually at which relevant compliance matters are discussed will help to ensure that registered principals are current on new compliance requirements and changes at their firms.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–NASD–2005–004), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–2065 Filed 4–29–05; 8:45 am]

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[10] *See* First Winston Letter and Bandes Letter.

[11] *See* Bandes Letter.

[12] *See* First Winston Letter.

[13] *See* NASD Response Letter.

[14] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78*o*–3.

[16] 15 U.S.C. 78*o*–3(b)(6).

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51609; File No. SR–NASD–2005–013]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Create a Uniform Pricing Structure for the Nasdaq Market Center

April 26, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 8, 2005, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On April 19, 2005, Nasdaq amended the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to establish a uniform schedule of fees for all market participants using the trade execution services of the Nasdaq Market Center. Nasdaq would implement the proposed rule change immediately upon approval by the Commission. The text of the proposed rule change, as amended, is available on Nasdaq's Web site (*http://www.nasdaq.com/about/LegalCompliance.stm*), at Nasdaq's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is proposing the adoption of a uniform pricing and credit rebate structure applicable to all users of the Nasdaq Market Center. Under the proposal, all users of the Nasdaq Market Center would be charged the same tier-based per-share amounts for entering orders into the system, and all users would be entitled to the same tier-based levels of rebate credits based on the liquidity provided by those orders.[4]

To accomplish this, Nasdaq proposes to: (1) Eliminate the separate $0.001 fee it currently imposes on market participants for non-directed or preferenced orders that access the quote/orders of market participants that charge access fees for accessing their

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Amendment No. 1 (replacing and superseding the original filing in its entirety).

[4] This same pricing structure also applies to Nasdaq's Brut facility.

quotes/orders through the Nasdaq Market Center; and (2) require that electronic communication networks (''ECNs'') and alternative trading systems (''ATSs'') that wish to participate in the Nasdaq Market Center not charge any fee to broker-dealers that access them through the Nasdaq Market Center.

Nasdaq believes that the adoption of a uniform fee structure appropriately recognizes the similarities among all categories of market participants when they provide liquidity through the display of priced orders using the Nasdaq Market Center. Further, Nasdaq believes that adoption of the uniform pricing structure described above would increase the level of cost certainty and price transparency for users of the Nasdaq Market Center, thereby allowing them to make better-informed decisions about where and how to place their orders for potential execution. Finally, by centralizing through Nasdaq the imposition and collection of fees and the payment of credit rebates, Nasdaq expects to reduce the administrative burden on many market participants that currently pay execution fees and receive rebates for transactions initiated through the Nasdaq Market Center using a variety of payment processes, depending on the counter-party to a specific trade.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[5] in general and with section 15A(b)(6) of the Act,[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In addition, Nasdaq believes that establishing uniform pricing across all categories of market participants is consistent with section 15A(b)(5),[7] as well as Commission Regulation ATS,[8] the Adopting Release for which stated that ''[t]here are a number of ways the exchange or association could address the issue of fees charged by alternative trading systems. For example, subject to Commission review and approval, an exchange or association could establish a standard for what constitutes a fair and reasonable fee for non-subscriber access to an alternative trading system.'' [9] Furthermore, Regulation ATS' Rule 301(b)(4) provides in relevant part that, ''* * * if the national securities exchange or national securities association to which an alternative trading system provides the prices and sizes of orders * * * establishes rules designed to ensure consistency with standards for access to the quotations displayed on such national securities exchange, or the market operated by such national securities association, the alternative trading system shall not charge any fee to members that is contrary to, that is not disclosed in the manner required by, or that is inconsistent with any standard of equivalent access established by such rules.'' [10]

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. As the Commission noted in its approval of SR–NASD–2003–128, which created the current $0.003 per-share maximum ECN access fee, the ability of an SRO to establish access fee standards is specifically permitted by Regulation ATS, and not prohibited by either sections 15A or 6(e) of the Exchange Act.[11] In addition, the Commission reiterated that, for an access fee rule to be approved by the Commission, the rule must be necessary to maintain consistency within the SRO's market and be designed to promote just and equitable principles of trade, to promote fair competition, to facilitate transactions in securities, and in general, to protect investors and the public interest.[12] Nasdaq believes that the instant proposal satisfies these requirements.

First, the Nasdaq Market Center remains a voluntary system, and ECNs unwilling to accept the same fee structure as other users of the Nasdaq Market Center are free to trade on other venues or participate in the Nasdaq Market Center as order-entry firms. Second, as noted above, Nasdaq's proposal is designed to provide a level of cost-certainty and price transparency that seeks to encourage greater use of the Nasdaq Market Center—including increased participation by market makers, order-entry firms, and ECNs. Finally, the proposed uniform fee structure ensures the equal treatment of all users of the system, maintains consistency within the Nasdaq Market Center, and prevents the system's neutral execution algorithms from being used to impose non-competitive fees on other market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change; or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASD–2005–013 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–NASD–2005–013. This file number should be included on the subject line if e-mail is used. To help the

[5] 15 U.S.C. 78o–3.

[6] 15 U.S.C. 78o-3(b)(6).

[7] 15 U.S.C. 78o–3(b)(5).

[8] 17 CFR 242.300 *et seq.*

[9] Securities Exchange Act Release No. 40760 (Dec. 8, 1998), 63 FR 70844, 70871 (Dec. 22, 1998).

[10] 17 CFR 242.301(b)(4).

[11] Securities Exchange Act Release No. 49220 (Feb. 11, 2004), 69 FR 7836, 7841–42 (Feb. 19, 2004).

[12] *See id.* at 7840.

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2005–013 and should be submitted on or before May 23, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–2078 Filed 4–29–05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51611; File No. SR–NASD–2005–026]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to TRACE Market Data Fees

April 26, 2005.

I. Introduction

On February 11, 2005, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to Transaction Reporting and Compliance Engine (''TRACE'') market data fees. The Commission published the proposed rule change for comment in the **Federal Register** on March 16, 2005.[3] The Commission received one comment letter on the proposal.[4] On April 25, 2005, NASD filed a response to the comment letter.[5] This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The proposed rule change would amend NASD Rule 7010(k) relating to TRACE transaction data to: (i) Terminate the Bond Trade Dissemination Service (''BTDS'') Internal Usage Authorization Fee and the BTDS External Usage Authorization Fee and, in lieu of both fees, establish a Vendor Real-Time Data Feed Fee; (ii) define the term ''Tax Exempt Organization,'' and amend the defined term ''Non-Professional'' for purposes of NASD Rule 7010(k)(3); and (iii) make other minor, technical amendments. The proposal is discussed in greater detail in the Commission's notice soliciting public comment.[6]

III. Summary of Comments Received and NASD Response

The Commission received one comment letter on the proposal.[7] The SIA Letter supports NASD's proposed rule change. However, the commenter requests that NASD clarify whether ''market data subscribers who are natural persons using a brokerage account established in the name of an entity name they or their family control'' are considered ''Non-Professional'' within the meaning of the rule.[8] In addition, the commenter states, with regard to a reduced fee for Tax Exempt Organizations, that further review ''may be warranted to determine the justifiable basis for a reduced fee, including a better description of the tax exempt organizations that would benefit from a reduced price structure, a better explanation as to why the reduced fee is necessary, and an analysis of the potential impact such a proposal may have on competition.''[9]

In response to the SIA Letter, NASD states that it ''will consider identifying certain non-natural persons as ''Non-Professionals'' as part of its continuing review and interpretation of TRACE data fees and access.''[10] In addition, NASD states that ''[t]he proposed definition of Tax-Exempt Organization limits significantly the number and type of organizations that may apply to receive Real-Time TRACE transaction data at the reduced fee and, by definition, limits the use of Real-Time TRACE transaction data solely for data access programs for the benefit of individual investors and not for commercial purposes.''[11] Given these restrictions, NASD does not believe that the proposal will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.[12]

The SIA Letter also stated that the rationale NASD followed in its proposal—that financial services industry employees should be considered non-professionals when they access data for personal, non-commercial uses—should be applied uniformly to all other individual subscribers of bond or equity market data no matter which self regulatory organization, directly or indirectly, controls the market data.[13] The SIA Letter petitions the Commission for rulemaking to review the definitions of ''Professional'' and ''Non-Professional'' as interpreted for market data fee and administrative purposes by the Consolidated Tape Association, the NASDAQ UTP Plan, the New York Stock Exchange, NASDAQ, the Options Price Reporting Authority, and NASD.[14] This petition will be considered separately from this proposal.

IV. Discussion

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities association.[15] In particular, the Commission believes that the proposed rule change is consistent with section

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[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 51336 (March 9, 2005), 70 FR 12921 (March 16, 2005) (''Notice'').

[4] *See* letter from Andrew C. Wels, Chairman, Technology & Regulation Market Data Subcommittee, Securities Industry Association (''SIA''), to Jonathan G. Katz, Secretary, Commission, received April 8, 2005 (undated) (''SIA Letter'').

[5] *See* letter from Sharon K. Zackula, Associate General Counsel, NASD, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated April 25, 2005 (''NASD Letter'').

[6] *See* Notice, *supra* note 3.

[7] SIA Letter, *supra* note 4.

[8] *Id.* at 3.

[9] *Id.* at 4.

[10] NASD Letter at 2 (''For purposes of TRACE fees, NASD has interpreted the term ''Non-Professional'' to further NASD's goal of providing access to TRACE market data at no charge to persons who seek to use TRACE market data for personal, rather than commercial, purposes.'').

[11] *Id.* at 3.

[12] *See id.*

[13] SIA Letter at 1.

[14] *See id.*

[15] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

15A(b)(6) of the Act,[16] which requires, among other things, that the rules of an association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and section 15A(b)(5) of the Act,[17] which requires, among other things, that rules of an association provide for the equitable allocation of reasonable dues, fees, and other charges among members, issuers, and other persons using any facility or system which the association operates or controls. Consolidating the two TRACE data fees into one fee and reducing the TRACE data fee for qualifying Tax-Exempt Organizations appears reasonable and should not adversely affect the use and distribution of TRACE data. In addition, the Commission believes that clarifying who is a ''Non-Professional'' and therefore is not subject to TRACE fees is reasonable and consistent with the goal of wide dissemination of TRACE transaction data.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[18] that the proposed rule change (SR-NASD–2005–026) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

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[16] 15 U.S.C. 78o–3(b)(6).

[17] 15 U.S.C. 78o–3(b)(5).

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51613; File No. SR–NYSE–2004–42]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Eliminate the Requirement That a Floor Official Approve Certain Transactions on the Exchange's Automated Bond System

April 26, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 10, 2004, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. On March 30, 2005, the NYSE filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend Exchange Rule 86(g) relating to the Exchange's Automated Bond System® (''ABS''). The text of the proposed rule change, as amended, is available on the NYSE's Web site (*http://www.nyse.com*), at the NYSE's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NYSE's Fixed Income Market is centered on its ABS, a fully automated trading and information system that allows subscribing firms to enter, maintain, view, and execute bond orders through screen displays in their offices. Orders are maintained, displayed, and matched in ABS on a strict price-and-time priority basis. ABS displays current market data and provides subscribers with immediate execution reports and locked-in trade comparisons. ABS also provides real-time last sale and quotation information to subscribers and market data vendors.

At year-end 2004, ABS had a subscriber base of 37 member firms with an installed base of 115 screens. All bonds listed on the NYSE trade through ABS. Exchange bond volume for the year 2004 was approximately $1.3 billion par value. About 94% of NYSE bond volume was in straight, or non-convertible, debt and the remaining 6% of NYSE bond volume was in convertible bonds.

Exchange Rule 86 governs trading in ABS. Existing NYSE Rule 86(g) requires that all ABS transactions in non-convertible bonds that are made two points or more away from the last sale, or more than 30 days after the last sale, may be made only with the approval of a Floor Official. As a practical matter, the Floor Official may require that the bonds be bid up or offered down before approving such transactions.[4]

The Exchange proposes to eliminate the current NYSE Rule 86(g). The requirement in Exchange Rule 86(g) for Floor Officials to approve orders entered at an increment of two points or greater from the last transaction has long been made unnecessary by the fact that ABS is an order-driven system in which subscribing firms may enter only priced orders, and a firm entering an order in ABS at a variation of two points or greater is already required to immediately confirm the price of such order prior to the order's acceptance into ABS. The entering firm would no longer need to confirm an order entered into ABS more than 30 days from the last trade of the bond issue, if the price of the entered order were less than two points from the previous trade price.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, which replaced and superceded the original filing in its entirety, the NYSE supplemented its rationale for the proposal by, among other things, describing the process that a Floor Official follows when considering whether to approve a transaction that would occur at a price that is at least two points or more than 30 days from the last transaction; recounting some of the history of bond trading on the NYSE; explaining that the Exchange has not found it necessary to reinstate the two-point/30-day provision for convertible bonds since it eliminated its applicability to convertible bonds in 1998; and noting that Exchange Rule 86(g) requires all orders to be entered into ABS at a limit price, and that ABS automatically asks a user to reconfirm the price of an order that is entered at a price two or more points away from the last sale.

[4] If, for example, an order is entered into ABS to buy 10 XYZ bonds at 93 when the last sale for XYZ occurred at 90, the Floor Official could determine that XYZ bond should be ''bid up'' at a decided price increment away from the limit order for a decided period of time, typically one ''point'' for one minute. The NYSE bond supervisor would then enter the bidding-up starting price, price increment, time increment, and final price into ABS, upon which a message appears on all ABS screens alerting subscribing firms that bidding up in XYZ has commenced. An ABS user could execute against that ''bid'' by entering an order to sell at 91 into the system. If, after one minute, the ''bid'' at 91 generated no interest among ABS users, the order would be bid at 92 for one minute. If that ''bid'' generated no interest, then the order would, after one minute, be bid at 93 or be matched (traded) at 93, depending on whether there was a contra-side order to sell at 93 in the ABS at that point in time. Telephone conversation between Fred Siesel, Consultant, NYSE, and Tim Fox, Attorney, Commission on April 18, 2005.

The requirements that orders entered into ABS be priced and that the user entering the order must reconfirm the price of an order entered at a variation of two points or greater from the last sale have been programmed into ABS since its inception.

The Exchange believes that, because firms entering orders into ABS control and are responsible for the orders they enter into ABS, the requirements of current NYSE Rule 86(g) are unnecessary. They are a legacy from the time when NYSE bond trading was floor-based, rather than screen-based. These requirements slow down trading in ABS and may result in a loss of liquidity. For example, during the period when an order is ''bid up'' or ''offered down'' under the existing rule, a resting offer/bid in the system might be cancelled, thus causing the order being bid up/offered down to miss the opportunity to interact with the resting order. The time involved in the Floor Official's review of the situation, and the time for the Floor Official to determine whether to bid up/offer down can act to the detriment of the order. Once an order is entered into ABS, the process is electronic and still provides a price confirmation component to help ensure that orders are priced correctly.

Before ABS was developed, the NYSE's bond floor involved two trading ''arenas.'' One was the ''free crowd,'' where bond floor brokers primarily traded convertible bonds and a handful of active non-convertible bonds. The other arena involved ''cabinet'' trading. In the free crowd, brokers left their mnemonic broker identifications with indications of buying or selling interest next to the bond symbol on one of a number of boards containing multiple bond symbols. The indications were entered in pencil and the boards were erasable and cleaned after the close of trading. If a broker had an interest on the contra side of an existing indication, the broker would announce that interest to the broker on the opposite side. The brokers would agree on price, subject to the undisclosed limits of their orders. Also, with the broker's announcement of interest in a particular bond, other brokers would often join the crowd and trade according to the floor trading rules of precedence and parity.

Cabinet trading involved cards of orders to buy and sell bonds which were organized, by bond, in racks. The order cards were organized in sequence according to price and time priority under former NYSE Rule 85. When orders matched, bond floor clerks took the matching orders to bond floor brokers to write the trade tickets. Firms not having brokers regularly on the bond floor were represented by one of the bond floor brokers; however, any equity floor broker could execute bond orders on the bond floor. All completed bond trades were reported on the dedicated bond ticker.

ABS initially replaced manual cabinet trading, providing immediate matching and reporting of non-free-crowd bond trades and quotations with size. Free crowd trade prices, without quotations, were also reported through ABS. In the mid-1980s, the few non-convertible bonds that traded in the free crowd were moved to ABS. In 1998, the convertible bonds commenced trading in ABS on a price-and-time priority basis.

The two-point/30-day provision was eliminated for convertible bonds when, in 1998, the physical bond floor was closed and trading in convertible bonds was transferred to ABS.[5] The Exchange asserts that, since that time, there have not been any problems with respect to the trading of convertible bonds, nor has there been a situation requiring the reinstatement of the requirement of Floor Official approval if a transaction would occur at two points or more away or more than 30 days away from the last sale.[6] In addition, since the complete closing of the bond floor, the only officials available to make bond rulings are equity Floor Officials who, in addition to being less familiar with bond trading, may be diverted from their responsibilities to the Exchange's equity market.

In sum, since ABS accepts only limited price orders, and since the entering firm must reconfirm the price of the order being entered if that order is at a price that is two points or more away from the last sale price, the bidding up/offering down requirement of the current NYSE Rule 86(g) is unnecessary.

The Exchange also is proposing to codify in NYSE Rule 86(g) two features that have been programmed into ABS since its inception: (1) The acceptance of priced orders only; and (2) price confirmation, by the entering firm, of orders entered at a price two or more points inferior to the last sale price.

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under section 6(b)(5) of the Act[7] that an exchange have rules that are designed to promote just and equitable principles of trade; to remove impediments to, and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NYSE does not believe that the proposed rule change, as amended, would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the NYSE consents, the Commission will:

A. By order approve such proposed rule change, as amended; or

B. Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2004–42 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–NYSE–2004–42. This file number should be included on the

[5] Prior to moving convertible bonds to ABS, convertible bond quotes were non-firm price indications only, with no size. In ABS, convertible bond quotes are firm, with size, and are ''live.''

[6] Pursuant to NYSE Rule 86(g), a Floor Governor may, if prevailing market conditions warrant, impose similar requirements on convertible bonds.

[7] 15 U.S.C. 78f(b)(5).

subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NYSE–2004–42 and should be submitted on or before May 23, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland

Deputy Secretary.

[FR Doc. E5–2083 Filed 4–29–05; 8:45 am]

BILLING CODE 8010–01–P

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51608; File No. SR–PCX–2005–48]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Revise PCX Rule 6.88 To Eliminate the Prohibition on Computer Generated Orders

April 26, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 13, 2005, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by PCX. The Exchange has designated the proposed rule change as ''non-controversial'' under section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend PCX Rule 6.88 in order to eliminate the prohibition on orders that are created and communicated electronically without manual input (''Computer Generated Orders''). Below is the text of the proposed rule change. Proposed new language is *italicized*; proposed deletions are in [brackets].

* * * * *

Rules of the Pacific Exchange, Inc.

Rule 6

Rule 6.88(a)—No Change.

Rule 6.88(b) *Reserved*. [Except as provided in subsection (b)(1), OTP Holders and OTP Firms may not enter orders via the MFI or permit the entry of orders via the MFI if those orders are created and communicated electronically without manual input (''computer generated orders''). Except as provided in subsection (b)(1), order entry by public customers or associated persons of OTP Holders and OTP Firms must involve manual input such as entering the terms of an order into an order-entry screen or manually selecting a displayed order so that the order will be sent. Nothing in this Rule prohibits OTP Holders or OTP Firms from electronically sending to the Exchange orders manually entered by customers into front-end communications systems (*e.g.*, Internet gateways, online networks, etc).

(1) Computer generated orders may be sent to the Exchange via the MFI only if they are properly designated in a form and manner as prescribed by the Exchange. Orders so designated will be re-routed for representation by a Floor Broker. Computer generated orders are not eligible for automatic execution via the Auto-Ex System.]

(c)—No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend PCX Rule 6.88 to eliminate the prohibition on Computer Generated Orders. PCX Rule 6.88 was originally adopted because it was necessary to protect market makers.[5] At the time, allowing electronic entry directly into the Exchange's Pacific Options Exchange Trading System (''POETS'') could give customers with order-generating systems a significant advantage over PCX market makers. With the development of the Exchange's new electronic trading system, PCX Plus, market makers have the ability to manage their exposure more quickly and efficiently, thereby obviating the need for this rule.[6] The Exchange no longer uses POETS. The Exchange believes that the elimination of the prohibition on Computer Generated Orders will enhance access to the Exchange, and therefore, provide more liquidity to PCX.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance

[5] *See* Securities Exchange Act Release No. 43328 (September 22, 2000), 65 FR 58834 (October 2, 2000).

[6] The Philadelphia Stock Exchange, Inc. (''Phlx'') eliminated its Electronic Generation rule in 2003. *See* Securities Exchange Act Release No. 48648 (October 16, 2003), 68 FR 60762 (October 23, 2003). The Chicago Board Options Exchange, Incorporated (''CBOE'') eliminated its Electronically Generated and Communicated Orders rule in 2005. *See* Securities Exchange Act Release No. 51030 (January 12, 2005), 70 FR 3404 (January 24, 2005).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

competition and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange asserts that the foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) thereunder [10] because it does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposal.[11]

PCX has requested that the Commission waive the 30-day pre-operative period, which would make the rule change operative immediately, because the proposed rule change is based on rule changes filed by the Phlx and CBOE. The Commission believes that it is consistent with the protection of investors and the public interest to waive the 30-day pre-operative period in this case.[12] Allowing the proposed rule change to become operative immediately should enhance access to the Exchange. Moreover, the proposed rule change does not raise any new issues of regulatory concern, as the proposal is based on a rule change previously filed by the Phlx and approved by the Commission pursuant to Section 19(b)(2) of the Act,[13] as well as a rule change previously filed by CBOE with the Commission pursuant to Section 19(b)(3)(A) of the Act.[14] The Commission notes that the International Securities Exchange, Inc. also filed a similar rule change with the Commission pursuant to Section 19(b)(3)(A) of the Act.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–PCX–2005–48 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–PCX–2005–48. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2005–48 and should be submitted on or before May 23, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

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[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposal.

[12] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78s(b)(2).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] *See* Securities Exchange Act Release No. 51424 (March 13, 2005), 70 FR 16321 (March 30, 2005).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51601; File No. SR–PCX–2005–38]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to Corporate Governance Standards for Listed Companies

April 22, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 18, 2005, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and II below, which Items have been prepared by PCX. PCX submitted Amendment No. 1 to the proposal on April 21, 2005.[3] The Exchange filed this proposal pursuant to section 19(b)(3)(A) of the Act,[4] and Rule 19b–4(f)(6) thereunder,[5] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 made a minor clarifying change to the proposal.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 5 17 CFR 240.19b–4(f)(6).

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCX, through its wholly-owned subsidiary PCX Equities, Inc. (''PCXE''), is proposing to amend PCXE Rules 5.3(k) and 5.3(m) to adopt new corporate governance standards for PCX listed companies. The text of the proposed rule change, as amended, is set forth below. Proposed new language is in *italics*; proposed deletions are in brackets.

* * * * *

Rules of the PCX Equities, Inc.

* * * * *

Rule 5

* * * * *

Listings—Corporate Governance and Disclosure Policies

Rule 5.3–5.3(j)—No Change.

Rule 5.3(k). Independent Directors/Board Committees

The Corporation shall require that each *listed* domestic issuer have a majority of independent directors on its board of directors, except that a listed domestic issuer of which more than 50% of the voting power is held by an individual, a group or another company, a limited partnership and any company in bankruptcy need not have a majority of independent directors on its board or have nominating/corporate governance and compensation committees composed of independent directors as set forth in Rule 5.3(k). However, all such controlled companies, limited partnerships and any company in bankruptcy must have at least a minimum three person audit committee and otherwise comply with the audit committee requirements provided for in this Rule 5.3(k)(5).

(1) Independent Directors. For purposes of this Rule 5.3(k), no director qualifies as independent unless the board of directors affirmatively determines that the director has no material relationship with the listed company, either directly or as a partner, shareholder or officer of an organization that has a relationship with the company. Companies must *identify which directors are independent and* disclose *the basis for that* [these] determination[s]. *The identity of the independent directors and t*[T]he basis for a board determination that a relationship is not material must be disclosed in the company's annual proxy statement (or, if the issuer does not file a proxy, in its Form 10–K, 20–F or N–CSR). A board may adopt and disclose categorical standards to assist it in making determinations of independence and may make a general disclosure if a director meets these standards. Any determination of independence for a director who does not meet these standards must be specifically explained. A company must disclose any standard it adopts. In the event that a director with a business or other relationship that does not fit within the disclosed standards is determined to be independent, a board must disclose the basis for its determination.

In addition, the following directors do not qualify as independent directors:

(A) A director who is *or has been within the last three years*, an employee *of the listed company* [or former employee], or whose immediate family member is *or has been within the last three years* an executive officer of the listed company [whose employment ended within the past three years]. *Employment as an interim Chairman or CEO or other executive officer shall not disqualify a director from being considered independent following that employment. For purposes of this rule the term executive officer shall have the same meaning as ''officer'' as set forth in Rule 16a–1(f) under the Securities and Exchange Act of 1934.*

(B)*(i)* A director *or a director who has an immediate family member* who is *a current partner of a firm that is the company's internal or external auditor*;[,]

(ii) A director who is a current employee of such a firm;

(iii) A director who has an immediate family member who is a current employee of such a firm and who participates in the firm's audit, assurance or tax compliance (but not tax planning) practice; or

(iv) A director or a director who has an immediate family member who was within the last three years (but is no longer) a partner or employee of such a firm and personally worked on the listed company's audit within that time [or in the past three years has been, affiliated with or employed by a (present or former) auditor of the company (or of an affiliate). Such director cannot be independent until three years after the end of either the affiliation or the auditing relationship].

(C) A director or *a director who has an immediate family member* who is, or in the past three years has been, part of an interlocking directorate in which an executive officer of the listed company serves *or served* on the compensation committee of another company that concurrently employs *or employed* the director.

(D) *Reserved.* [A director with an immediate family member in any the foregoing categories. Immediate family includes a person's spouse, parents, children, siblings, mothers-in-law and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law, and anyone (other than employees) who shares such person's home.]

(E) A director who is an executive officer or an employee, or whose immediate family member is an executive officer, of a company that makes payments to, or receives payments from, the listed company for property or services in an amount which, in any single fiscal year, exceeds the greater of $200,000 or 5% of such other company's consolidated gross revenues, is not ''independent'' until three years after falling below such threshold. For purposes of this rule, [charitable] *contributions to tax exempt* organizations shall not be considered ''[companies] *payments*'', provided however that a listed company shall disclose in its annual proxy statement, or if the listed company does not file an annual proxy statement, in the company's annual report on Form 10–K filed with the SEC, any [charitable] *such* contributions made by the listed company to any [charitable] *tax exempt* organization in which *any independent* director serves as an executive officer if, within the preceding three years, contributions in any single fiscal year *from the listed company to the organization* exceeded the greater of $200,000 or 5% of such [charitable] *tax exempt* organization's consolidated gross revenues. At any time, however, when an issuer has a class of securities that is listed on *and meets the requirements of a similar rule of* [a national securities exchange or national securities association other than the Corporation and is subject to requirements substantially similar to those set forth in this section 5.3(k)(1)(E)] *the New York Stock Exchange or the National Association of Securities Dealers (for the Nasdaq National Market or Small Cap Market)*, the issuer shall not be required to separately meet the requirements set forth *in this section 5.3(k)(1)(E).* [above. Governance requirements of other markets will be considered to be substantially similar to the requirements above if they are adopted by the New York Stock Exchange or the National Association of Securities Dealers (for the Nasdaq National Market or Small Cap Market).]

(F) A director who receive[s]*d*, or whose immediate family member is an

executive [employee] *officer* who receive[s]*d*, *during any twelve-month period within the last three years*, more than $100,000 [per year] in direct compensation from the listed company, other than director and committee fees and pension or other forms of deferred compensation for prior service (provided such compensation is not contingent in any way on continued service). [Such director shall not be independent until three years after he or she ceases to receive more than $100,000 per year in such compensation.] *Compensation received by a director for former service as an interim Chairman or CEO or other executive officer need not be considered in determining independence under this test. For purposes of this rule the term executive officer shall have the same meaning as ''officer'' as set forth in Rule 16a–1(f) under the Securities and Exchange Act of 1934.*

(G) In the case of an investment company, in lieu of paragraphs (A)–(F), a director who is an ''interested person'' of the company as defined in section 2(a)(19) of the Investment Company Act of 1940, other than in his or her capacity as a member of the board of directors or any board committee.

(H) As used throughout this rule, the term ''immediate family member'' includes a person's spouse, parents, children, siblings, mothers-in-law and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law, and anyone (other than employees) who shares such person's home.

Transition Rule: Each of the above standards contains a three-year ''look back'' provision. In order to facilitate a smooth transition to the new independence standards, the Corporation will phase in the ''look back'' provision by applying only a one-year look back for the first year after adoption of these new standards. The three year look back will begin to apply only from and after June 4, 2005.

Due to this proposed tightening of the independence test and to avoid a sudden change to the status of a current director, companies will have until their first annual meeting after June 30, 2005 to replace a director who was independent under the prior test but who is not independent under the current test.

(2) Regularly Scheduled Non-Management Directors Executive Sessions. The non-management directors of each *listed* company must meet at regularly scheduled executive sessions without management. Non-management directors are all those who are not [company] *executive* officers, and includes such directors who are not independent by virtue of a material relationship, former status or family membership, or for any other reason. [There need not be a single presiding director] *A non-management director must preside over each executive session of the non-management directors, although the same director is not required to preside* at all executive sessions of the non-management directors. If one director is chosen to preside at *all of* these meetings, his or her name must be disclosed in the *listed company's* annual proxy statement*, or if the company does not file an annual proxy statement, in the company's annual report on Form 10–K filed with the SEC.* Alternatively, *if the same individual is not the presiding director at every meeting*, a *listed* company [may] *must* disclose the procedure by which a presiding director is selected for each executive session. In order that interested parties may be able to make their concerns known to the non-management directors, a *listed* company must disclose a method for such parties to communicate directly with the presiding director or with the non-management directors as a group. *Such disclosure must be made in the listed company's annual proxy statement or, if the company does not file an annual proxy statement, in the company's annual report on Form 10–K filed with the SEC.* If the non-management directors include directors who are not independent, then the company should at least once a year schedule an executive session including only independent directors.

(3) Nominating/Corporate Governance Committee. Listed companies must have a Nominating Committee/Corporate Governance Committee composed entirely of independent directors, except that if such committee is made up of three or more individuals, then one member of the committee need not be an independent director. The director who is not independent may not be a current officer or employee or immediate family member of an officer or employee. Such individual may be appointed to the Nominating/Corporate Governance Committee if the board, under exceptional and limited circumstances, determines that such individual's membership on the committee is required by the best interests of the company and its shareholders, and the board discloses, in the proxy statement for the next annual meeting subsequent to such determination (or, if the issuer does not file a proxy, in its Form 10–K or 20–F), the nature of the relationship and the reasons for the determination. The member appointed under this exception may not serve for longer than two years. The committee must have a written charter that addresses:

(A) The committee's purpose, which at a minimum, must be to: Identify individuals qualified to become board members, and to select, or to recommend that the board select, the director nominees for the next annual meeting of shareholders; and develop and recommend to the board a set of corporate governance [principles] *guidelines* applicable to the company.

(B) The committee's goals and responsibilities, which must reflect, at a minimum, the board's criteria for selecting new directors, and oversight of the evaluation of the board and management.

(C) An annual performance evaluation of the committee.

(D) Committee member qualifications, committee member appointment and removal, committee structure and operations (including authority to delegate to subcommittees), and committee reporting to the board.

(E) The committee's authority to retain and terminate any search firm to be used to identify director candidates, including the sole authority to approve the search firm's fees and other retention terms.

If a company is required by contract or otherwise to provide third parties with the ability to nominate directors (for example, preferred stock rights to elect directors upon a dividend default, shareholder agreements, and management agreements), the selection and nomination of such directors need not be subject to the nominating committee process.

Boards may allocate the responsibilities of the nominating/corporate governance committee and the compensation committee to committees of their own denomination, provided that the committees are composed entirely of independent directors, except that if such committee is made up of three or more individuals, then one member of the committee need not be an independent director. Any such committee must have a published committee charter. Controlled companies, limited partnerships and any company in bankruptcy need not comply with the requirements of this provision.

(4) Compensation Committee. Listed companies must have a compensation committee composed entirely of independent directors, except that if such committee is made up of three or more individuals, then one member of

the committee need not be an independent director. The director who is not independent may not be a current officer or employee or immediate family member of an officer or employee. Such individual may be appointed to the Compensation Committee if the board, under exceptional and limited circumstances, determines that such individual's membership on the committee is required by the best interests of the company and its shareholders, and the board discloses, in the proxy statement for the next annual meeting subsequent to such determination (or, if the issuer does not file a proxy, in its Form 10–K or 20–F), the nature of the relationship and the reasons for the determination. The member appointed under this exception may not serve for longer than two years. The committee must have a written charter that addresses:

(A) The committee's purpose which, at a minimum, must be to discharge the board's responsibilities relating to compensation of the company's executives, and to produce an annual report on executive *officer* compensation for inclusion in the *listed* company's proxy statement (or, if the issuer does not file a proxy, in its Form 10–K or 20–F), in accordance with applicable rules and regulations.

(B) The committee's duties and responsibilities, which at a minimum, must be to:

(i) Review and approve corporate goals and objectives relevant to CEO compensation, evaluate the CEO's performance in light of those goals and objectives, and, *either as a committee or together with the other independent directors (as directed by the board), determine and approve* [set] the CEO's compensation level based on this evaluation.

(ii) Make recommendations to the board with respect to *non-CEO executive officer compensation, and* incentive-compensation [plans] and equity-based plans *that are subject to board approval.*

(C) An annual performance evaluation of the compensation committee.

(D) Committee member qualifications, committee member appointment and removal, committee structure and operations (including authority to delegate to subcommittees), and committee reporting to the board.

(E) The committee's authority to retain and terminate a consultant to assist in the evaluation of a director, CEO or senior executive compensation. The committee shall have the sole authority to approve the consultant's fees and other retention terms.

Controlled companies, limited partnerships and any company in bankruptcy need not comply with the requirements of this provision.

(5) Audit Committee.

(A) General Provisions.

(i) Each listed company must have an audit committee as defined by section 3(a)(58) of the Securities and Exchange Act of 1934. The audit committee must be composed entirely of independent directors. The audit committee must comply with all the rules and procedures set forth in Rule10A–3 of the Securities and Exchange Act of 1934. If a member of the audit committee ceases to be independent for reasons outside the member's reasonable control, that person, with notice by the issuer to the Corporation, may remain an audit committee member of the listed issuer until the earlier of the next annual meeting or special meeting of the listed issuer or one year from the occurrence of the event that caused the member to be no longer independent. Should an individual who ceases to be independent for reasons outside the member's reasonable control remain a member of the audit committee after the time permitted by this Rule 5.3(k)(5)(A)(i), then the Corporation shall remove the issuer's securities from listing pursuant to the procedures set forth in Rule 5.5(m).

(ii) Listed issuers, other than foreign private issuers and small business issuers (as defined in Rule 12b–2 of the Securities and Exchange Act of 1934), must be in compliance with this Rule 5.3(k)(5)(A) by the earlier of their first annual shareholders meeting after January 15, 2004, or October 31, 2004. Foreign private issuers and small business issuers must be in compliance with this Rule 5.3(k)(5) by July 31, 2005.

(iii) If an executive officer of a listed issuer becomes aware of any material noncompliance by the listed issuer with the requirements of this Rule 5.3(k)(5), the listed issuer must promptly notify the Corporation of such noncompliance.

(iv) To be eligible for continued listing, a listed issuer must comply with all of the requirements set forth in this Rule 5.3(k)(5). Except as provided for in Rule 5.3(k)(5)(A)(i), should a listed issuer fail to comply with any of the requirements set forth in this Rule 5.3(k)(5) for a period of six (6) consecutive months, then the Corporation shall remove the issuer's securities from listing pursuant to the procedures set forth in Rule 5.5(m). A listed issuer who is not in compliance with the requirements of Rule 5.3(k)(5) must provide the Corporation with a plan of remediation within 15 days after notifying the Corporation of such noncompliance. The listed issuer must provide the Corporation with written monthly updates on the progress of the plan of remediation.

(v) Audit committees for investment companies must also establish procedures for the confidential, anonymous submission of concerns regarding questionable accounting or audit matters by employees of the investment advisor, administrator, principal underwriter, or any other provider of accounting related services for the investment company, as well as employees of the investment company. This responsibility must be addressed in the audit committee charter.

(B) Written Charter. The audit committee must have a written charter that addresses:

(i) The committee's purpose which, at a minimum, must be to:

(a) Assist board oversight of (1) the integrity of the *listed* company's financial statements, (2) the *listed* company's compliance with legal and regulatory requirements, (3) the independent auditor's qualifications and independence, and (4) the performance of the *listed* company's internal audit function and independent auditors.

(b) Prepare the report that SEC rules require be included in the *listed* company's annual proxy statement (or, if the issuer does not file a proxy, in its Form 10–K, 20–F or N–CSR).

(ii) The duties and responsibilities of the audit committee, which, at a minimum, must be to:

(a) Be directly responsible for the appointment, compensation, retention, and oversight of the work of any registered public accounting firm engaged (including resolution of disagreements between management and the auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for the listed issuer, and each such registered public accounting firm must report directly to the audit committee.

(b) At least annually, obtain and review a report by the independent auditor describing the firm's internal quality control procedures; any material issues raised by the most recent internal quality-control review, or peer review, of the firm, or by any inquiry or investigation by governmental or professional authorities, within the preceding five years, respecting one or more independent audits carried out by the firm, and any steps taken to deal with any such issues; and (to assess the auditor's independence) all relationships between the independent auditor and the *listed* company.

(c) *Meet to review and d*[D]iscuss the *listed company's* annual audited financial statements and quarterly financial statements with management and the independent auditor, including *reviewing* the company's *specific* disclosure under ''Management Discussion and Analysis of Financial Condition and Results of Operations.''

(d) Discuss earnings press releases, as well as financial information and earnings guidance provided to analysts and rating agencies.

(e) Engage independent counsel and other advisers, as it determines necessary to carry out its duties.

(f) Discuss policies with respect to risk assessment and risk management.

(g) Meet separately, periodically, with management, with internal auditors (or other personnel responsible for the internal audit function) and with independent auditors.

(h) Review with the independent auditor any audit problems or difficulties and management's response.

(i) Set clear policies for hiring employees or former employees of the independent auditors.

(j) Report regularly to the board of directors.

(k) Review major issues regarding accounting principles and financial statement presentations; including any significant changes in the company's selection or application of accounting principles, and major issues as to the adequacy of the company's internal controls and any special audit steps adopted in light of material control deficiencies.

(l) Review analyses prepared by management and/or the independent auditor setting forth significant financial reporting issues and judgments made in connection with the preparation of the financial statements, including analyses of the effects of alternative GAAP methods on the financial statements.

(m) Review the effect of regulatory and accounting initiatives, as well as off-balance sheet structures, on the financial statements of the company.

(n) Review earnings press releases (paying particular attention to any use of ''pro forma,'' or ''adjusted'' non-GAAP, information), as well as financial information and earnings guidance provided to analysts and rating agencies.

(o) Establish procedures for: (1) the receipt, retention, and treatment of complaints received by the issuer regarding accounting, internal accounting controls, or auditing matters and (2) the confidential, anonymous submission by employees of the issuer of concerns regarding questionable accounting, internal accounting controls or auditing matters.

(iii) An annual performance evaluation of the audit committee.

(C) Composition/Expertise Requirement of Audit Committee Members.

(i) Each audit committee will consist of at least three independent directors, as defined in Rule 5.3(k)(1).

(ii) Each member of the audit committee must be financially literate, as such qualification is interpreted by the company's board of directors in its business judgment, or must become financially literate within a reasonable period of time after his or her appointment to the audit committee.

(iii) At least one member of the audit committee must have accounting or related financial management expertise, as the board of directors interprets such qualification in its business judgment.

(D) Written Affirmation.

As part of the initial listing process, and with respect to any subsequent changes to the composition of the audit committee, and otherwise [approximately] once each year, each company shall provide the Exchange written confirmation regarding:

(i) Any determination that the company's board of directors has made regarding the independence of directors.

(ii) The financial literacy of the audit committee member.

(iii) The determination that at least one of the audit committee members has accounting or related financial management expertise.

(iv) The annual review and reassessment of the adequacy of the audit committee charter.

Beginning June 30, 2005 the company must submit the written affirmation no later than 30 calendar days after the company's annual meeting. If the company's annual meeting. If the company's 2005 annual meeting occurs prior to June 30, 2005, the company must submit a written affirmation for the year 2005 no later than December 31, 2005.

5.3(k)(5)(E)–5.3(l)—No Change.

5.3(m) CEO Certification.

Each listed company CEO must certify to the Corporation each year that he or she is not aware of any violation by the company of the Corporation's corporate governance listing standards, *qualifying the certification to the extent necessary.* The certification filed with the Corporation, *including any qualifications to that certification,* as well as the CEO/CFO certifications required to be filed with the SEC regarding the quality of the company's public disclosure, must be disclosed in the listed company's annual report to shareholders. *Beginning June 30, 2005 the company must submit the certification to the Corporation no later than 30 calendar days after the company's annual meeting. If the company's 2005 annual meeting occurs prior to June 30, 2005, the company must submit the certification for the year 2005 no later than December 31, 2005.*

Each listed company's CEO must promptly notify the Corporation after any executive officer of the listed company becomes aware of any material non-compliance with any applicable provision of section 5.3.

Each listed company must submit an executed written affirmation annually to the Corporation. Beginning June 30, 2005 the company must submit the written affirmation no later than 30 calendar days after the company's annual meeting. If the company's 2005 annual meeting occurs prior to June 30, 2005, the company must submit a written affirmation for the year 2005 no later than December 31, 2005. In addition, each listed company must submit an interim Written Affirmation each time a change in the membership occurs of the board or any of the committees subject to Rule 5.3(k).

Rule 5.3(n)–(o)—No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

PCXE Rules 5.3(k)–5.3(o) set forth the Exchange's corporate governance requirements applicable to listed companies. Exchange staff has received numerous phone call and email requests for clarification and interpretations of these standards. Based on PCX experience in working with listed companies and their legal counsel on issues and questions related to Rules 5.3(k)–5.3(o), the Exchange has noted

several Rules that need clarification. The following outlines the amendments proposed to be made to the PCXE Corporate Governance Requirements.

Independence Definition: The Exchange proposes to amend Rule 5.3(k)(1) to clarify that companies are required to identify which of their directors are deemed independent. The Exchange has been of the opinion that the existing language strongly implied that obligation, but believes it is appropriate to make the language explicit to remove any ambiguity.

The Exchange proposes to amend Rule 5.3(k)(1)(A) to add a definition of the term executive officer. The Exchange also proposes to make minor cleanup changes throughout Rule 5.3(k) to provide consistency when utilizing this term. The Exchange also proposes to add clarifying language to indicate that service as an interim Chairman, CEO or other executive officer will not trigger the look-back provision.

The Exchange proposes to amend Rule 5.3(k)(1)(B), which currently precludes independence where a director or family member of such director is employed by or affiliated with a present or former auditor. The proposed rule revises the standard so that it will cover any director or immediate family member of such director who is a current partner of the audit firm, any director who is a current employee of the audit firm, any immediate family member who is a current employee of the audit firm participating in the firm's audit, assurance or tax compliance (but not tax planning) practice, and any former partner or employee of the audit firm or an immediate family member who personally worked on the listed company's audit during the past three years.[6]

The Exchange proposes to revise Rule 5.3(k)(1)(C) to clarify that independence is not satisfied when a director or a director who has an immediate family member who is, or in the past three years has been, part of an interlocking directorate in which an executive officer of the listed company serves or served on the compensation committee of another company that concurrently employs or employed the director.

The Exchange proposes to eliminate Rule 5.3(k)(1)(D) and move the definition of immediate family member to Rule 5.3(k)(1)(H). PCX believes this would help clarify that the definition of immediate family member applies uniformly throughout the rules on corporate governance.

The Exchange proposes to revise Rule 5.3(k)(1)(E) to clarify the treatment of contributions under this test. The language as originally adopted referred to ''charitable organizations.'' PCX believes that it has become clear through discussions with listed company representatives that a company can have business relationships with a charitable organization and there is no reason why payments related to such business relationships should not be covered by this test. What the Exchange intends to distinguish and to cover with disclosure under this test, are ''contributions'' made to a charitable or tax exempt organization. In addition, the Exchange is tightening its exemption for compliance from this rule if the issuer has a class of securities listed on another national securities exchange that has a similar standard. The Exchange proposes only to exempt issuers who have a class of securities listed on the New York Stock Exchange or Nasdaq from having to separately meet the requirements of Rule 5.3(k)(1)(E).

The Exchange proposes to amend PCXE Rule 5.3(k)(1)(F) which precludes independence where a director or family member receives more than $100,000 in direct compensation. PCX believes the wording suggested that under certain circumstances the look-back period might be as long as four years. The revised formulation will make clear that the period should not be read to be longer than 36 months.

As a result of the proposed changes to Rule 5.3(k)(1), there is a category of person that would not have been impacted by existing Rule 5.3(k)(1) that will be precluded from independence under the revised standards, namely a director with a family member who is a current partner of the audit firm. Under the existing standards, such a family member did not impact the director's independence if the family member did not act in a ''professional capacity'' at the audit firm. Under the revised standards, any family member who is a current partner of the audit firm will preclude the director from being considered independent. To avoid suddenly changing the status of a current director, the Exchange will give companies until their first annual meeting after June 30, 2005 to replace a director who was independent under our existing rule but not under the revised rule.

Regularly Schedule Non-Management Directors Executive Sessions: The Exchange is proposing a clarifying change to Rule 5.3(k)(2) to require a non-management director to preside over each executive session of the non-management directors, but to allow for different directors to preside over all such meetings. The Exchange also proposes to add clarifying language to specify that the disclosure must be in the annual proxy statement (or if the company does not file a proxy statement, then in the Form 10–K), in order to be consistent with the other disclosure requirements of the PCXE Rules.

Requirements of the Compensation Committees: The Exchange proposes to amend Rule 5.3(k)(4)(B) to make clear that the board has the ability to delegate its authority to approve non-CEO executive officer compensation to the compensation committee. In addition, the Exchange is proposing clarifying language to indicate that non-CEO compensation on which the compensation committee should focus is that of the executive officers.

Duties of the Audit Committee: The Exchange proposes to amend Rule 5.3(k)(5)(B)(ii)(C) to clarify that the audit committee must meet to review and discuss the company's financial statements and must review the company's specific Management's Discussion and Analysis disclosures. In addition the Exchange is proposing that the written affirmation required by Rule 5.3(k)(5)(D) be submitted to the Exchange within 30 calendar days after the company's annual meeting.[7]

CEO Certification: The Exchange proposes to amend the language of Rule 5.3(m) to clarify that any qualifications to the annual CEO certification must be specified and disclosed. Beginning June 30, 2005 the company must submit the certification to the Corporation no later than 30 calendar days after the company's annual meeting. If the company's 2005 annual meeting occurs prior to June 30, 2005, the company must submit the certification for the year 2005 no later than December 31, 2005.[8] In addition the Exchange is proposing a requirement that companies submit annual and interim written affirmations. The annual affirmation must be submitted to the Exchange no later than 30 calendar days after the company's annual meeting. An interim written affirmation must be submitted each time a change in the membership occurs to the board or any of the committees subject to Rule 5.3(k).

[6] Clarified pursuant to a telephone conversation between Steven Matlin, Senior Counsel, PCX, and A. Michael Pierson, Attorney, Division of Market Regulation, Commission (April 21, 2005).

[7] An exception is provided if the company's annual meeting occurs prior to June 30, 2005, similar to the exception provided for CEO certifications, as described below.

[8] *See supra* note 6.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act,[9] in general, and furthers the objectives of section 6(b)(5) of the Act,[10] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to foster competition and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change, as amended, has been designated by PCX as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[11] and subparagraph (f)(6) of Rule 19b–4 thereunder.[12]

The foregoing proposed rule change, as amended: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest. Furthermore, the PCX gave the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change. Consequently, the proposed rule change, as amended, has become effective pursuant to section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

At any time within 60 days of the filing of the proposed rule change, as amended, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[15]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–PCX–2005–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–PCX–2005–38. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2005–38 and should be submitted on or before May 23, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–2082 Filed 4–29–05; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] *See* 15 U.S.C. 78s(b)(3)(C). For purposes of calculation the 60-day abrogation period, the Commission considers the period to commence on April 22, 2005, the date the PCX filed Amendment No. 1.

[16] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OBM review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before June 1, 2005. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and *David_Rostker@omb.eop.gov*, fax number 202–395–7285 Office of Information and Regulatory Affairs, Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, *jacqueline.white@sba.gov* (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Application for Business Loans.

Form No's: 4, 4SCH–A, 4I, 4L.

Frequency: On occasion.

Description of Respondents: Applicants for an SBA loan.

Responses: 51,000.

Annual Burden: 520,000.

Jacqueline K. White,

Chief, Administrative Information Branch.

[FR Doc. 05–8672 Filed 4–29–05; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10109 and #10110]

Mississippi Disaster # MS–00001

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Mississippi, dated 04/18/2005.

Incident: Severe Storms and Tornadoes.

Incident Period: 04/06/2005.

Effective Date: 04/18/2005.

Physical Loan Application Deadline Date: 06/20/2005.

EIDL Loan Application Deadline Date: 01/17/2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 1, 360 Rainbow Blvd. South 3rd Floor, Niagara Falls, NY 14303.

FOR FURTHER INFORMATION CONTACT: Alan Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration on 04/18/2005, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Jackson, Rankin

Contiguous Counties:

Mississippi: Copiah, George, Harrison, Hinds, Madison, Scott, Simpson, Smith, and Stone.

Alabama: Mobile.

The Interest Rates are:

	Percent.
Homeowners With Credit Available Elsewhere	5.875
Homeowners Without Credit Available Elsewhere	2.937
Businesses With Credit Available Elsewhere	6.000
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	4.750
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number(s) assigned to this disaster for physical damage is 10109 C and for economic injury is 10110 0.

The States which received EIDL Decl # are Mississippi and Alabama.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: April 18, 2005.

Hector V. Barreto,

Administrator.

[FR Doc. 05–8673 Filed 4–29–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10113 and #10114]

New Jersey Disaster #NJ–00001 Disaster Declaration

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of New Jersey (FEMA—1588–DR), dated 04/19/2005.

Incident: Severe Storms and Flooding.

Incident Period: 04/01/2005 through 04/03/2005.

Effective Date: 04/19/2005.

Physical Loan Application Deadline Date: 06/20/2005.

EIDL Loan Application Deadline Date: 01/19/2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 1, 360 Rainbow Blvd. South 3rd Floor, Niagara Falls, NY 14303.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 04/19/2005, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Bergen, Essex, Gloucester, Hunterdon, Mercer, Morris, Passaic, Sussex, and Warren.

Contiguous Counties:

New Jersey: Atlantic, Burlington, Camden, Cumberland, Hudson, Middlesex, Monmouth, Salem, Somerset, and Union.

Delaware: New Castle.

New York: Bronx, New York, Orange, Rockland, and Westchester.

Pennsylvania: Bucks, Delaware, Monroe, Northampton, Philadelphia, and Pike.

The Interest Rates are:

	Percent
Homeowners with credit available elsewhere	5.875
Homeowners without credit available elsewhere	2.937
Businesses with credit available elsewhere	6.000
Businesses & small agricultural cooperatives without credit available elsewhere	4.000
Other (including non-profit organizations) with credit available elsewhere	4.750
Businesses and non-profit organizations without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 101136 and for economic injury is 101140.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 05–8676 Filed 4–29–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10115 and # 10116]

New York Disaster # NY–00005 Disaster Declaration

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of New York (FEMA—1589–DR), dated 4/19/2005.

Incident: Severe storms and flooding.

Incident Period: 4/2/2005 through 4/4/2005.

Effective Date: 4/19/2005.

Physical Loan Application Deadline Date: 6/20/2005.

EIDL Loan Application Deadline Date: 1/19/2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 1, 360 Rainbow Blvd. South 3rd Floor, Niagara Falls, NY 14303.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 4/19/2005, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Broome, Chenango, Cortland, Delaware, Orange, Rensselaer, Schenectady, Schoharie, Sullivan, Tioga, and Ulster.

Contiguous Counties:

New York: Albany, Cayuga, Chemung, Columbia, Dutchess, Greene, Madison, Montgomery, Onondaga, Otsego, Putnam, Rockland, Saratoga, Tompkins, and Washington.

Massachusetts: Berkshire.

New Jersey: Passaic, Sussex.

Pennsylvania: Bradford, Pike, Susquehanna, and Wayne.

Vermont: Bennington.

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	5.875
Homeowners Without Credit Available Elsewhere	2.937
Businesses With Credit Available Elsewhere	6.000
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Other (Including Non-profit Organizations) With Credit Available Elsewhere	4.750
Businesses and Non-profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 101156 and for economic injury is 101160.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 05–8675 Filed 4–29–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10111 and # 10112]

Pennsylvania Disaster # PA–00001 Disaster Declaration

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Pennsylvania (FEMA—1587–DR), dated 4/14/2005.

Incident: Flooding.

Incident Period: 4/2/2005 through 4/3/2005.

Effective Date: 4/14/2005.

Physical Loan Application Deadline Date: 6/14/2005.

EIDL Loan Application Deadline Date: 1/9/2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 1, 360 Rainbow Blvd. South 3rd Floor, Niagara Falls, NY 14303.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 4/14/2005, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Bradford, Bucks, Columbia, Luzerne, Monroe, Northampton, Pike, Wayne, and Wyoming.

Contiguous Counties:

Pennsylvania: Carbon, Lackawanna, Lehigh, Lycoming, Montgomery, Montour, Northumberland, Philadelphia, Schuylkill, Sullivan, Susquehanna, and Tioga.

New Jersey: Burlington, Hunterdon, Mercer, Sussex, and Warren.

New York: Broome, Chemung, Delaware, Orange, Sullivan, and Tioga.

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere:	5.875
Homeowners Without Credit Available Elsewhere:	2.937
Businesses With Credit Available Elsewhere:	6.000
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere:	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere:	4.750
Businesses and Non-Profit Organizations Without Credit Available Elsewhere:	4.000

The number assigned to this disaster for physical damage is 101116 and for economic injury is 101120.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 05–8674 Filed 4–29–05; 8:45 am]

BILLING CODE 8025–01–P

TENNESSEE VALLEY AUTHORITY

Meeting No. 1559

Time and Date: 9 a.m. (c.d.t.), May 4, 2005, Robbins Field/Noble Park, (adjacent to Church Street School), Madison and Jackson Streets, Tupelo, Mississippi.

Status: Open.

Agenda

Approval of minutes of meeting held on March 23, 2005.

New Business

C—Energy

C1. Contract with Day & Zimmermann, NPS, Inc., for modification and supplemental maintenance work at TVA's western region fossil plants and other TVA controlled facilities.

C2. Supplement to Contract No. 99998999 with G–UB–MK Constructors for modification, supplemental maintenance work, and selective catalytic/noncatalytic reduction projects at various TVA fossil and hydro facilities.

C3. Supplement to Contract No. 00014703 with Stone and Webster Construction, Inc., for work in support of TVA's nuclear operating units and the Browns Ferry Nuclear Plant Unit 1 Recovery Project.

E—Real Property Transactions

E1. Grant of a permanent easement to the State of Georgia for a highway improvement project, affecting approximately .24 acre of land in Catoosa County Georgia, Tract No. XTWCCA–1H.

E2. Grant of a permanent recreation easement to Dr. James L. Everett, affecting approximately .3 acre of TVA land on Fort Loudoun Reservoir in

Blount County, Tennessee, Tract No. XFL–137RE, in exchange for a permanent access easement affecting approximately 2.2 acres of private land on Fort Loudoun Reservoir in Blount County, Tennessee, Tract No. FLAR–6–E.

E3. Sale of approximately 6.5 acres of land, Tract No. XVOLSS–1, and sale of a permanent easement for an access road, affecting approximately .5 acre of land, Tract No. XVOLSS–2AR, to the Knoxville Utilities Board for the construction of a new 161-kV substation on the Volunteer 500-kV Substation site.

E4. Modification of certain deed restrictions affecting approximately .27 acre of former TVA land on Chickamauga Reservoir in Hamilton County, Tennessee, Tract No. XCR–415, S.1X, to abandon a road right-of-way and allow for existing fill and a portion of a house to remain on the property.

E5. Sale at public auction of approximately 1 acre of land on Tellico Reservoir in Monroe County, Tennessee, Tract No. XTEKLR–249.

F—Other

F1. Approval to file condemnation cases to acquire easements and rights-of-way for a transmission line project affecting the Johnsonville-Columbia Tap to South Waverly Transmission Line in Humphreys County, Tennessee, and the temporary right to enter upon land in Gordon County, Georgia, to complete activities required for the acquisition of an easement and right-of-way for the Moss Lake-Center Point Transmission Line.

Information Items

1. Approval of delegations of authority to the President and Chief Operating Office, or a designee, to approve the practices of submitting ''virtual supply offers'' and ''virtual demand bids'' in the Midwest ISO's day-ahead energy market and of holding, buying, or selling Financial Transmission Rights in the Midwest ISO and PJM Interconnection's day-ahead energy markets, and delegation of authority to the Chief Financial Officer, or a designee, to assure that the practices are within the parameters approved by the Board.

2. Approval of a delegation of authority to the President and Chief Operating Officer, or a designee, to approve and implement revisions to TVA's Dispersed Power Production Guidelines for TVA and Distributors of TVA Power.

3. Approval of a public auction sale affecting approximately 24.7 acres of land on Pickwick Reservoir in Tishomingo County, Mississippi, Tract No. XYECR–14.

4. Approval of Two-Part Real Time Pricing arrangements to be offered to Eka Chemicals, Inc., for operation of its plant near Columbus, Mississippi.

5. Amendments to the Rules and Regulations of the TVA Retirement System and to the Provisions of the TVA Savings and Deferral Retirement Plan.

6. Approval of delegation of authority to purchase, renew, and take other ancillary actions as may be necessary or desirable in connection with certain nonnuclear insurance.

FOR FURTHER INFORMATION CONTACT: Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999. People who plan to attend the meeting and have special needs should call (865) 632–6000. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: April 27, 2005.

Maureen H. Dunn,

General Counsel and Secretary.

[FR Doc. 05–8748 Filed 4–28–05; 10:19 pm]

BILLING CODE 8120–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice With Respect to List of Countries Denying Fair Market Opportunities for Government-Funded Airport Construction Projects

AGENCY: Office of the United States Trade Representative.

ACTION: Notice with respect to a list of countries denying fair market opportunities for products, suppliers or bidders of the United States in airport construction procurements.

SUMMARY: Pursuant to section 533 of the Airport and Airway Improvement Act of 1982, as amended (49 U.S.C. 50104), the United States Trade Representative (''USTR'') has determined not to include any countries on the list of countries that deny fair market opportunities for U.S. products, suppliers, or bidders in foreign government-funded airport construction projects.

DATES: Effective April 29, 2005.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Mélida Hodgson, Associate General Counsel, (202) 395–3582 or Jean Heilman Grier, Senior Procurement Negotiator, (202) 395–5097.

SUPPLEMENTARY INFORMATION: Section 533 of the Airport and Airway Improvement Act of 1982, as amended by section 115 of the Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100–223 (codified at 49 U.S.C. 50104) (''the Act''), requires USTR to decide by April 29, 2005, whether any foreign countries have denied fair market opportunities to U.S. products, suppliers, or bidders in connection with airport construction projects of $500,000 or more that are funded in whole or in part by the governments of such countries. The list of such countries must be published in the **Federal Register**. For the purposes of the Act, USTR has decided not to include any countries on the list of countries that deny fair market opportunities for U.S. products, suppliers, or bidders in foreign government-funded airport construction projects.

Peter F. Allgeier,

Acting United States Trade Representative.

[FR Doc. 05–8698 Filed 4–29–05; 8:45 am]

BILLING CODE 3190–W5–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for a Change in Use of Aeronautical Property at Millville Municipal Airport, Millville, New Jersey

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The FAA is requesting public comment on the proposed release of approximately 140 acres of airport property on the south side of Millville Municipal Airport to permit its sale and development of a motorsport park. The airport land was deeded to the City of Millville under a quitclaim conveyance form the United States. It was later transferred to the Delaware River and Bay Authority (DRBA). FAA's action is to release the land from the deed provisions requiring aeronautical use of the property. The DRBA has stated that it has no aeronautical use for the parcel now or in the near future, according to the approved Airport Layout Plan. It will also be released from a reverter clause in the quitclaim deed. The Fair Market Value for the land as determined by appraisals will be paid to the DRBA for the maintenance, operation and capital development of the airport.

The motorsport park will consist of 4 racecourses, 2 paddock areas, 2 motels, 2 hotels, clubhouses, *etc.*

Any comments the agency receives will be considered as a part of the decision.

DATES: Comments must be received on or before June 1, 2005.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Philip Brito, Manager, FAA New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, New York 11530.

In addition, a copy of any comments submitted to the FAA must be mailed or delivered to Mr. James Johnson, Executive Director, Delaware River and Bridge Authority at the following address: Mr. James Johnson, Executive Director, Delaware River and Bay Authority, P.O. Box 71, New Castle, Delaware 19720.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Brito, Manager, New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, New York 11530; telephone (516) 227–3803; FAX (516) 227–3813; E-mail *Philip.brito@faa.gov*.

SUPPLEMENTARY INFORMATION: Section 125 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR21) requires the FAA to provide an opportunity for public notice and comment prior to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport land for aeronautical.

Issued in Garden City, New York.

Philip Brito,

Manager New York Airports District Office, Eastern Region.

[FR Doc. 05–8724 Filed 4–29–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on February 22, 2005 (70 FR 8661–8662).

DATES: Comments must be submitted on or before June 1, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292), or Mr. Victor Angelo, Office of Support Systems, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6470). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. No. 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. §§ 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On February 22, 2005, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 70 FR 8661–8662. FRA received no comments in response to this notice.

Before OMB decides whether to approve this proposed collection of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); see also 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: Qualifications For Locomotive Engineers.

OMB Control Number: 2130–0533.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Abstract: Section 4 of the Rail Safety Improvement Act of 1988 (RSIA), Public Law 100–342, 102 Stat. 624 (June 22, 1988), later amended and re-codified by Public Law 103–272, 108 Stat. 874 (July 5, 1994; now codified at 49 U.S.C. 20135) required that FRA issue regulations to establish any necessary program for certifying or licensing locomotive engineers. The collection of information is used by FRA to ensure that railroads employ and properly train qualified individuals as locomotive engineers and designated supervisors of locomotive engineers. The collection of information is also used by FRA to verify that railroads have established the required certification programs for locomotive engineers and that these programs fully conform to the standards specified in the regulation.

Annual Estimated Burden Hours: 203,568.

Title: Locomotive Cab Sanitation Standards.

OMB Control Number: 2130–0552.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Abstract: The collection of information is used by FRA to promote rail safety and the health of railroad workers by ensuring that all locomotive crew members have access to toilet/sanitary facilities—on as needed basis—which are functioning and hygienic. Also, the collection of information is used by FRA to ensure that railroads repair defective locomotive toilet/sanitary facilities within 10 calendar days of the date on which these units becomes defective.

Annual Estimated Burden Hours: 1,105.

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC, 20503; Attention: FRA Desk Officer.

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of FRA, including whether the information will have practical utility; the accuracy of FRA's estimates of the burden of the proposed information

collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. §§ 3501–3520.

Issued in Washington, DC on April 25, 2005.

D.J. Stadtler,

Director, Office of Budget, Federal Railroad Administration.

[FR Doc. 05–8627 Filed 4–29–05; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Safety Advisory 2005–03; Highway-Rail Grade Crossing Safety

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of safety advisory.

SUMMARY: FRA is issuing a safety advisory to facilitate improved cooperation in the investigation of collisions at highway-rail grade crossings. The advisory describes the roles of the Federal and state governments and of the railroads in highway-rail grade crossing safety. FRA reminds railroads of their responsibility to: Properly report any accident involving grade crossing signal failure; properly maintain records relating to credible reports of grade crossing warning system malfunctions; properly preserve the data from all locomotive-mounted recording devices following highway-rail grade crossing collisions; and cooperate fully with local law enforcement authorities during their investigations of such accidents. FRA also offers assistance to local authorities in the investigation of highway-rail grade crossing collisions where information or expertise within FRA's control is required to complete the investigation.

FOR FURTHER INFORMATION CONTACT: Ron Ries, Staff Director, Highway-Rail Crossing Safety, RRS–23, Mail Stop 25, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone: (202) 493–6285); Ronald Newman, Staff Director, Motive Power and Equipment Division, FRA Office of Safety Assurance and Compliance, RRS–14, Mail Stop 25, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone: (202) 493–6241), Tom McFarlin, Staff Director, Signal and Train Control (telephone: (202–493–6203), or Kathryn Shelton, Trial Attorney, FRA Office of Chief Counsel, Mail Stop 10, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone: (202) 493–6063).

SUPPLEMENTARY INFORMATION: Public interest in the prevention of collisions at highway-rail grade crossings remains strong. In June of 2004, the Secretary of Transportation released the Department's new Action Plan for Highway-Rail Crossing Safety and Trespass Prevention, which noted that fatalities at highway-rail grade crossings were cut by 42% over the period 1994–2002, despite growing exposure in terms of motor vehicle and train miles. This progress has continued since 2002. Although 2004 saw an increase in fatalities over 2003, 2004 was the safest year on record in terms of the rate at which highway-rail grade crossing incidents occurred. FRA is confident that continued emphasis on education, engineering, and enforcement can drive further reductions in risk.

This advisory describes basic responsibilities of public and private entities that have responsibilities related to highway-rail grade crossing safety, with a specific focus on engineering and railroad operations.[1] In addition, this advisory provides information regarding the roles of FRA, railroads, and state and local officials in the investigation of grade crossing collisions, including suggestions for making the process work better. FRA notes that a basic responsibility of railroads and public authorities at all levels of government is to derive information from these often tragic events to help prevent future occurrences.

Role of the FRA

FRA administers and enforces regulatory requirements and exercises statutory powers that bear on highway-rail grade crossing safety:

1. FRA regulations entitled ''Railroad Accidents/Incidents: Reports, Classification, and Investigations'' (49 CFR Part 225) require each railroad to report in writing, within 30 days following the end of the month in which the event occurred, specified significant events, including any impact between railroad on-track equipment and an automobile, bus, truck, motorcycle, bicycle, farm vehicle or pedestrian at a highway-rail grade crossing (49 CFR 225.5, 225.19). Information is required to be provided on Form FRA 6180.57 for each such event, and separate forms must be filed to provide additional detail if an injury occurs or if damage to railroad property exceeds the current threshold (presently $6,700). The information is available in full detail on the agency's Web site *(http://www.fra.dot.gov)*.

2. Effective May 1, 2003, section 225.9 requires that FRA receive immediate telephonic notification of any fatality at a highway-rail grade crossing. This provision was intended to create a parallel structure with a longstanding requirement of the National Transportation Safety Board (NTSB) and to provide FRA with early information regarding fatal collisions for which FRA might elect to conduct an investigation. (FRA and the NTSB both employ the National Response Center to receive these types of notifications.)

3. FRA is authorized to conduct an investigation of any accident or casualty associated with railroad operations. FRA judiciously exercises its discretion to investigate accidents, because its inspectors have such a broad array of other duties, including inspection and enforcement activities. Accordingly, FRA must confine its accident investigations to those events most likely to yield important information for use in achieving regulatory compliance, improving regulations, or fashioning other countermeasures. These are often cases where significant harm to multiple members of the public, railroad passengers, railroad personnel or property—or strong public interest in the circumstances (*e.g.*, involvement of a school bus)—warrant use of agency resources.

Historically, FRA has also investigated most accidents where questions have arisen regarding the proper functioning of active warning systems. FRA's Office of Safety has now adopted a formal accident assignment criterion under which each highway-rail grade crossing collision involving a credible allegation that the warning device failed to provide the required warning will be routinely investigated.

Additional collisions will be assigned for investigation, as warranted, based upon supportable concerns regarding the railroad's discharge of its responsibilities for grade crossing safety. (FRA regional managers sometimes assign for less intensive investigation additional collisions, where available information and resources warrant.)

4. FRA enforces regulations entitled ''Grade Crossing Signal System Safety'' (49 CFR Part 234) which require the

[1] This notice does not establish new requirements or specify new responsibilities. Its purpose is to describe responsibilities rooted in statutes, regulations, and established practice upon which persons have come to rely and to suggest additional actions that public and private entities should consider based upon recent events of note.

inspection, testing, and maintenance of active warning systems at highway-rail grade crossings according to specified standards. These regulations include safeguards to be observed, such as stopping or slowing train movements, when the railroad has notification that a warning system is malfunctioning. A railroad is also required to report telephonically, within 24 hours, any accident/incident involving an activation failure (49 CFR 234.7).

5. FRA's ''Locomotive Safety Standards'' (49 CFR Part 229) require that each locomotive operated in excess of 30 miles per hour be equipped with an operative event recorder capable of capturing and preserving certain data elements for the last 48 hours of operation. Essentially all locomotives operated by major freight and passenger railroads are so equipped. Following an accident required to be reported to FRA, including an impact at a highway-rail grade crossing, data are required to be safeguarded and preserved for at least 30 days. Section 229.135(d)(1) reads as follows:

> If any locomotive equipped with an event recorder is involved in an accident that is required to be reported to FRA, the railroad using the locomotive shall, to the extent possible, and to the extent consistent with the safety of life and property, preserve the data recorded by the device for analysis by FRA. This preservation requirement permits the railroad to extract and analyze such data; provided the original or a first-order accurate copy of the data shall be retained in secure custody and shall not be utilized for analysis or any other purpose except by direction of FRA or the National Transportation Safety Board. This preservation requirement shall expire 30 days after the date of the accident unless FRA or the Board notifies the railroad in writing that the data are desired for analysis.

The requirements for preservation of data include all on-board locomotive data storage devices and are not limited to the event recorder required by section 229.135.

6. Through the Locomotive Safety Standards, FRA has also required, effective December 31, 1997, that all locomotives operating greater than 20 miles per hour be equipped with operative auxiliary alerting lights (49 CFR 229.125(d)). When displayed with the locomotive headlight, these lights provide a distinctive triangular pattern that aids identification of an approaching locomotive and improves the ability of the user of the highway-rail grade crossing to determine when the train will arrive at the crossing.

7. FRA has issued a final rule on the Reflectorization of Freight Rail Rolling Stock that is intended to improve the visibility (''conspicuity'') of locomotives and freight cars during nighttime and periods of restricted visibility, particularly at crossings where there is no active warning system (*e.g.*, flashing lights) (70 FR 144; January 3, 2005) . Almost one-fourth of collisions at highway-rail grade crossings involve motor vehicles hitting the sides of trains. The final rule requires application of retroreflective material over a ten-year period and renewal of the material every ten years. The national car and locomotive fleets consist of over 1.3 million units. The Government of Canada has indicated its intent to adopt compatible requirements.

8. FRA has issued a final rule on Use of Locomotive Horns at Highway-Rail Crossings (49 CFR Part 222), which is scheduled for publication in the **Federal Register** on April 27, 2005 and will be effective on June 24, 2005. The final rule requires the horn to be sounded for 15 to 20 seconds prior to arrival of the train at each public crossing, subject to certain exceptions where risk is low or where action has been taken to compensate for the absence of warning provided by the locomotive horn.

9. FRA also conducts outreach to law enforcement and judicial officials to encourage enforcement of state laws governing motorist behavior at highway-rail grade crossings. Further, FRA works with the Federal Motor Carrier Safety Administration and major motor carriers to encourage driver compliance.

10. FRA and the Federal Highway Administration (FHWA) provide funding designated by the Congress to Operation Lifesaver, Inc. (OLI), which conducts programs of education and awareness through state chapters and sponsors public service announcements. Working with railroad police departments, FRA, and others, OLI also provides Grade Crossing Collision Investigation Courses at the Basic (4-hour), Intermediate (8-hour) and Advanced (16-hour) levels to help law enforcement officers more effectively investigate these events. This training was developed for the North American law enforcement community with the cooperation of the International Association of Chiefs of Police and the National Sheriffs Association. FRA and OLI also conduct outreach to the state and local judiciary, calling attention to the tragic consequences of grade crossing collisions and encouraging enforcement of state laws governing motorist behavior.

For additional detail, see Role of Railroads, below.

Role of the NTSB

The NTSB is the only agency established by federal law whose primary missions are to investigate transportation accidents and to make recommendations for improvement of transportation safety programs. NTSB's organic statute provides in pertinent part as follows:

(a) General.—(1) The National Transportation Safety Board shall investigate or have investigated (in detail the Board prescribes) and establish the facts, circumstances, and cause or probable cause of—

* * * * *

(B) a highway accident, including a railroad grade crossing accident, the Board selects in cooperation with a State;

(C) a railroad accident in which there is a fatality or substantial property damage, or that involves a passenger train;

* * * * *

(F) any other accident related to the transportation of individuals or property when the Board decides—

(i) The accident is catastrophic;

(ii) The accident involves problems of a recurring character; or

(iii) The investigation of the accident would carry out this chapter.

* * * * *

49 U.S.C. 1131] (emphasis supplied)

NTSB receives notification of fatal crossing impacts in the same manner as FRA. Event recorder data required to be maintained under FRA regulations is also required by FRA to be made available to the NTSB upon request (49 CFR 229.135).

In practice, NTSB investigates a small number of highly significant grade crossing accidents each year. Based upon review of full and memorandum reports listed on the NTSB web site, it appears that in the seven-year period 1997–2003 the Board investigated 12 highway-rail grade crossing collisions, with the clear majority being assigned highway numbers (generally indicating principal focus on highway-side considerations). The most events assigned in one year was four (1997, 2000), and the fewest was zero (2001, 2002).[2] FRA and other designated parties work closely and cooperatively with NTSB when NTSB elects to investigate a highway-rail grade crossing accident.

NTSB also prepares special studies that may address grade crossing safety, most recently Safety at Passive Grade Crossings; NTSB Report Number: SS—

[2] It is possible that one or more reports from this period remain unpublished.

98–02, –03; July 21, 1998. Board staff looked into the circumstances of a significant number of collisions at passive crossings in aid of this study.

Role of Railroads

Railroads possess the right-of-way at highway-rail grade crossings for the same reasons that large ships possess the right-of-way on navigable waterways, *i.e.*, large and heavy conveyances cannot stop quickly. As a result, a highway-rail grade crossing collision can rarely be avoided through actions of the locomotive engineer or conductor (*e.g.*, stopping the train short of the crossing). However, railroads and their employees have a variety of responsibilities that they must discharge under Federal or state law that are critical to safety at highway-rail grade crossings. They also have a responsibility to preserve and report information following grade crossing accidents, so that local public authorities can determine responsibility of the parties to the event, and so that Federal and state regulatory agencies can derive information useful for improving grade crossing safety.

The following discussion summarizes those responsibilities owed by railroads to the FRA, acting on behalf of the public, that relate to highway-rail grade crossing safety:

- Inspect, test, and maintain grade crossing warning systems in accordance with 49 CFR Part 234, and take other actions required by those regulations to avoid continuously operating signals, to provide for safety in the event of a signal malfunction or when it is necessary to remove a system from service (for testing or repair), to avoid interference in the normal functioning of these devices, and to restore malfunctioning signals to proper functioning without undue delay. See FRA Safety Advisory 2002–1 (67 FR 3258; January 23, 2002) and FRA Safety Advisory 2004–03 (69 FR 48904; August 11, 2004). (See further discussion below.)
- Report all activation failures in writing within 15 days (49 CFR 234.9).
- Maintain track structure in accordance with the Track Safety Standards (49 CFR Part 213). This includes maintaining adequately drained (non-fouled) ballast that otherwise could permit the existence of low ballast resistence adversely affecting the operation of grade crossing signals (49 CFR § 213.103) and removing vegetation on railroad property that could interfere with preview of grade crossing warning signs and signals, whether active or passive (49 CFR § 213.37).
- Operate trains in accordance with applicable speed limitations imposed by Federal regulation (49 CFR Parts 213, 234 and 236) and the railroad's operating rules, timetables, and special instructions (see 49 CFR Parts 217 and 240).
- Provide and maintain locomotive event recorders on all locomotives operating greater than 30 miles per hour, preserving data following any reportable event (49 CFR 229.135).
- Provide and maintain locomotive auxiliary alerting lights on any lead locomotive operating greater than 20 miles per hour (49 CFR 229.125(d)).

As noted above, the railroads will soon undertake additional duties related to sounding the locomotive horn (presently done under state law and the railroad operating rules) and reflectorization of freight rail rolling stock.

Special Emphasis: Railroad's Duties After an Accident

FRA reminds railroads that event recorder data must be preserved following accidents at highway-rail grade crossings and notes that FRA will conduct periodic records audits to determine that this information is being retained and made available to FRA and NTSB as required.

Following a highway-rail grade crossing accident/incident, the railroad has additional responsibilities that vary based on the circumstances:

- Event recorder data, including data from all locomotive-mounted recording devices designed to record information concerning the functioning of a locomotive or train, must be preserved for 30 days or longer if so notified by FRA or NTSB (49 CFR 229.135(d)).
- If it is determined that the grade crossing warning system experienced an activation failure, the railroad must make a telephonic report to FRA through the National Response Center (49 CFR 234.7), and thereafter file an activation failure report in writing (49 CFR 234.9(a)).
- In the case of a fatal highway-rail grade crossing accident/incident, the railroad must make a telephonic report immediately, again through the National Response Center (49 CFR 225.9).
- Railroads involved in the event must provide written reports of the accident/incident within 30 days after the month in which the event occurred (see, *e.g.*, 49 CFR 225.11 and 225.19). FRA's Guide for Preparing Accident/Incident Reports, available for downloading on FRA's web site *(http://safetydata.fra.dot.gov/officeofsafety)*, describes the applicable requirements.

FRA reminds railroads that each of these duties must be faithfully discharged. Through routine inspections and special assessments, FRA will continue to verify compliance with these requirements.

State and Local Government Roles

States and local governments play very critical roles in highway-rail grade crossing safety. Highway users, railroads, and others are responsible for compliance with requirements imposed by state and local governments. Those requirements are not defined by FRA, except to the extent that FRA's exercise of jurisdiction over a subject matter has the effect of preempting state action (see 49 U.S.C. 20106). Notwithstanding various actions that FRA and other Federal authorities have taken to promote highway-rail grade crossing safety, state and local agencies of appropriate jurisdiction daily exercise their own responsibilities, which include:

- Selection of traffic control devices, including highway-rail grade crossing warning systems, advance signage, pavement marking, etc., generally in conformity with the Manual for Uniform Traffic Control Devices (MUTCD), which is issued by the FHWA;[3]
- Determination, in cooperation with the railroad, of the need for, and design of, interconnections between highway-rail grade crossing warning systems and other traffic control signals in the immediate vicinity, including appropriate timing;
- Investigation of all accidents on public roads to determine user compliance with motor vehicle and other state code requirements and to determine if a crime has occurred;
- Examination and licensing of motor vehicle operators, including holders of Commercial Drivers Licenses;
- Enforcement of state requirements, if any, regarding clearance of sight obstructions on railroad (or other) property at highway-rail grade crossings.

Other Federal authorities assist States and localities in accomplishing this work, as do various private standards bodies. For instance, FHWA provides formula-based financial assistance that has been responsible for installation of the majority of highway-rail grade crossing active warning systems in the nation. FHWA also develops and maintains the MUTCD with the help of

[3] In some States, railroads are responsible for ''marking'' each public crossing with a crossbuck placed on railroad property, to the extent other signage is not provided by the roadway authority. A small number of States specify signage that the railroad must install at private crossings.

a national advisory committee comprised of experts in the field, including state and local traffic engineers. In addition to providing overall strategic leadership through the Secretary's Action Plan, the U.S. Department of Transportation's modal administrations, including FRA, have contributed to the development of key technical material, most recently the report of the Secretary's Technical Working Group entitled Guidance on Traffic Control Devices at Highway-Rail Crossings (November 2003) which is available on line at *http://www.fra.dot.gov/us/content/817*.

Despite the close working relationships forged over the years among public authorities responsible for highway-rail grade crossing safety, public misunderstandings persist. For instance, it has been alleged that FRA regulations interfere with toxicological testing of railroad crew members following crossing collisions. As a practical matter, that is not generally the case, because the preemptive effect of FRA's regulations do not extend to areas where state and local authorities have traditionally exercised authority with respect to breath or body fluid testing.

It is true that FRA has excluded highway-rail grade crossing collisions from the events for which mandatory post-accident toxicological testing is required under its regulations. The reason for that exclusion is that crew member actions seldom contribute to these events—rather, they frequently become additional victims as they observe close-up events they are powerless to prevent. However, if at any time a railroad crew member is on duty, and that person is reasonably suspected of being under the influence of or impaired by alcohol or other drugs, then the railroad is required to conduct a breath or urine test, or both, as applicable. Further, any state or local law enforcement official with probable cause to believe that a violation of a state criminal law that imposes sanctions for reckless conduct that leads to actual loss of life, injury or damage to property has been committed is free to take any action that would be authorized against any other person, including requiring production of body fluids for analysis. Thus, while FRA has not delegated to state and local officials the conduct of Federal tests, neither does FRA preempt appropriate criminal investigative authority a state or local law enforcement agency enjoyed prior to issuance of the FRA regulations-provided probable cause exists supporting that action. See 49 CFR 219.13(b).

To the extent train and engine crew fitness is an issue with respect to grade crossing safety, FRA's regulations governing random alcohol and drug testing provide an important safeguard by detecting and deterring misuse of these substances in the subject population. Among highway users, only commercial drivers are subject to random testing.

Opportunities for More Effective Cooperation

FRA has expertise, shared only by the NTSB and state rail agencies that are members of FRA's State Safety Participation Program, that can be helpful in evaluating safety issues at highway-rail grade crossings, whether before or after an event occurs. FRA Highway-Rail Grade Crossing Managers and Assistant Managers in each FRA region are fully devoted to supporting safety programs that reduce risk at grade crossings. As noted above, these managers and other key FRA personnel, including law enforcement liaison officers (on loan from state or local law enforcement agencies), conduct outreach to law enforcement agencies and the judiciary and provide access to appropriate training.

FRA can also offer assistance in resolving questions about safety raised following grade crossing collisions. FRA operating practices personnel are skilled in reviewing railroad operating rules and practices pertinent to grade crossing safety. FRA signal and train control inspectors are experts in the functioning of active warning systems (grade crossing signals) and can normally verify from testing, or review of recorded data, how the events related to railroad operations unfolded. FRA field personnel are also familiar with locomotive event recorder data and how to interpret it in relation to railroad operating rules, timetables, and special instructions.

In the great majority of the approximately 3,000 grade crossing collisions each year, the event would have been avoided had the vehicle operator or pedestrian heeded state law, and that person had available all necessary means for doing so.[4] However, in a small but nevertheless significant minority of events, other factors may have contributed, such as interference with the normal functioning of a warning system, failure of the warning system, or operation of the train in a manner not consistent with safety requirements (*e.g.*, short warning due to overspeed operation, failure to properly sound train horn, etc). In those cases, it is important for highway and rail authorities to cooperate in completing their respective investigations. Exchange of factual information pertinent to the cause of a transportation accident is clearly within the letter and spirit of FRA's authorizing statutes (see, *e.g.*, 49 U.S.C. 20902).

Special emphasis: Availability of FRA Support for State and Local Investigations

Through this Safety Advisory, FRA invites state and local law enforcement agencies responsible for investigating highway-rail grade crossing collisions to contact FRA if it appears from initial investigation that rail-related factors may have played a role in the occurrence. FRA will consult with the State or local agency and determine if FRA should initiate investigative activity regarding matters within our purview. If FRA determines that a credible issue is presented that is within our authority and responsibility, factual information that is developed during the investigation will be made available to the state or local agency initiating the request. FRA will also provide technical consultation as appropriate to explain the significance of railroad-related information.

Current office numbers for FRA regional offices are found at *http://www.fra.dot.gov*. You may determine the appropriate Regional office by searching the Federal Railroad Administration Web site [*http://www.fra.dot.gov/us/content/373*], selecting a State and clicking on the corresponding regional office for contact information. Outside of normal business hours, requests should be placed through the National Response Center (1–800–424–8802 or 1–800–424–0201) for communication to the FRA Duty Officer. FRA will distribute this Advisory through major national law enforcement associations and will make this Advisory available through outreach at the state and local level.

[4] For instance, the NTSB's study of collisions at passive crossings found that driver error was the probable cause for 49 out of 60 accident cases. In 7 of the remaining 11 cases, the probable cause was determined to be related to roadway conditions that affected the driver's ability to detect the presence of a passive crossing or an oncoming train; roadway and track conditions (*e.g.*, curvature) were cited as the probable cause in 3 of the 11 cases. Safety at Passive Crossings, NTSB Report Number: SS–98–02; July 28, 1998 at vii, viii. Review of FRA accident/incident data suggests that motorist involvement is significantly higher at crossings equipped with automated warning devices. It should be emphasized, however, that ''driver error'' can be significantly mitigated through a variety of strategies generally clustered under the themes of engineering, education and enforcement.

Issued in Washington, DC, on April 25, 2005.

Daniel C. Smith,

Associate Administrator for Safety.

[FR Doc. 05–8626 Filed 4–29–05; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Voluntary Intermodal Sealift Agreement (VISA)

AGENCY: Maritime Administration, DOT.

ACTION: Notice of open season for enrollment in the VISA program.

Introduction

The VISA program was established pursuant to section 708 of the Defense Production Act of 1950, as amended (DPA), which provides for voluntary agreements for emergency preparedness programs. VISA was approved for a two year term on January 30, 1997, and published in the **Federal Register** on February 13, 1997, (62 FR 6837). Approval is currently extended through September 30, 2005, as published in the **Federal Register** on March 16, 2005 (70 FR 12939). A further renewal is intended for the period beginning October 1, 2005.

As implemented, the VISA program is open to U.S.-flag vessel operators of militarily useful vessels, including bareboat charter operators if satisfactory signed agreements are in place committing the assets of the owner to the bareboat charterer for purposes of VISA. While tug/barge operators must own or bareboat charter barges committed to the VISA program, it is not required that these operators commit tug service through bareboat charter or ownership arrangements. Time charters of U.S.-flag tugs will satisfy tug commitments to the VISA program. However, participation in the VISA program is not satisfied by tug commitment only. Tug/barge VISA participants must commit capacity of at least one barge to the VISA program. Voyage and space charterers are not considered U.S.-flag vessel operators for purposes of VISA eligibility.

VISA Concept

The mission of VISA is to provide commercial sealift and intermodal shipping services and systems, including vessels, vessel space, intermodal systems and equipment, terminal facilities, and related management services, to the Department of Defense (DOD), as necessary, to meet national defense contingency requirements or national emergencies.

VISA provides for the staged, time-phased availability of participants' shipping services/systems to meet contingency requirements through prenegotiated contracts between the Government and participants. Such arrangements are jointly planned with the Maritime Administration (MARAD), U.S. Transportation Command (USTRANSCOM), and participants in peacetime to allow effective and best valued use of commercial sealift capacity, to provide DOD assured contingency access, and to minimize commercial disruption, whenever possible.

There are three time-phased stages in the event of VISA activation. VISA Stages I and II provide for prenegotiated contracts between DOD and participants to provide sealift capacity to meet all projected DOD contingency requirements. These contracts are executed in accordance with approved DOD contracting methodologies. VISA Stage III will provide for additional capacity to the DOD when Stage I and II commitments or volunteered capacity are insufficient to meet contingency requirements, and adequate shipping services from non-participants are not available through established DOD contracting practices or U.S. Government treaty agreements.

VISA Enrollment Open Season

The purpose of this notice is to invite interested, qualified U.S.-flag vessel operators that are not currently enrolled in the VISA program to participate in the program. Approved participants' VISA contingency contracts will coincide with the DOD contracting cycle of October 1, 2005 through September 30, 2006. This is the eighth annual enrollment period since the commencement of the VISA program. The annual enrollment was initiated because VISA has been fully integrated into DOD's priority for award of cargo to VISA participants. It is necessary to link the VISA enrollment cycle with DOD's peacetime cargo contracting cycle.

New VISA applicants are required to submit their applications for the VISA program as described in this Notice no later than May 31, 2005. This alignment of VISA enrollment and eligibility for VISA priority will solidify the linkage between commitment of contingency assets by VISA participants and receiving VISA priority consideration for the award of DOD peacetime cargo.

This is the only planned enrollment period for carriers to join the VISA program and derive benefits for DOD peacetime contracts during the time frame of October 1, 2005 through September 30, 2006. The only exception to this open season period for VISA enrollment will be for a non-VISA carrier that reflags a vessel into U.S. registry. That carrier may submit an application to participate in the VISA program at any time upon completion of reflagging.

Advantages of Peacetime Participation

Because enrollment of carriers in the VISA program provides DOD with assured access to sealift services during contingencies based on a level of commitment, as well as a mechanism for joint planning, DOD awards peacetime cargo contracts to VISA participants on a priority basis. This applies to liner trades and charter contracts alike. Award of DOD cargoes to meet DOD peacetime and contingency requirements is made on the basis of the following priorities:

- U.S.-flag vessel capacity operated by VISA participants, and U.S.-flag Vessel Sharing Agreement (VSA) capacity held by VISA participants.
- U.S.-flag vessel capacity operated by non-participants.
- Combination U.S.-flag/foreign-flag vessel capacity operated by VISA participants, and combination U.S.-flag/foreign-flag VSA capacity held by VISA participants.
- Combination U.S.-flag/foreign-flag vessel capacity operated by non-participants.
- U.S.-owned or operated foreign-flag vessel capacity and VSA capacity held by VISA participants.
- U.S.-owned or operated foreign-flag vessel capacity and VSA capacity held by non-participants.
- Foreign-owned or operated foreign-flag vessel capacity of non-participants.

Participants

Any U.S.-flag vessel operator organized under the laws of a state of the United States, or the District of Columbia, who is able and willing to commit militarily useful sealift assets and assume the related consequential risks of commercial disruption, may be eligible to participate in the VISA program. While vessel brokers and agents play an important role as a conduit to locate and secure appropriate vessels for the carriage of DOD cargo, they may not become participants in the VISA program due to lack of requisite vessel ownership or operation. However, brokers and agents should encourage the carriers they represent to join the program.

Commitment

Any U.S.-flag vessel operator desiring to receive priority consideration in the award of DOD peacetime contracts must commit no less than 50 percent of its total U.S.-flag militarily useful capacity in Stage III of the VISA program. Participants operating vessels in international trade and desiring to bid on DOD peacetime contracts will be required to provide commitment levels to meet DOD-established Stages I and/or II minimum percentages of the participant's militarily useful, oceangoing U.S-flag international trading fleet capacity on an annual basis. USTRANSCOM and MARAD will coordinate to ensure that the amount of sealift assets committed to Stages I and II will not have an adverse national economic impact. To minimize domestic commercial disruption, participants operating vessels exclusively in the domestic Jones Act trades are not required to commit the capacity of those U.S. domestic trading vessels to VISA Stages I and II. Overall VISA commitment requirements are based on annual enrollment.

In order to protect a U.S.-flag vessel operator's market share during contingency activation, VISA allows participants to join with other vessel operators in Carrier Coordination Agreements (CCAs) to satisfy commercial or DOD requirements. VISA provides a defense against antitrust laws in accordance with the DPA. CCAs must be submitted to MARAD for coordination with the Department of Justice for approval, before they can be utilized.

Compensation

In addition to receiving priority in the award of DOD peacetime cargo, a participant will receive compensation during contingency activation. During enrollment, each participant may choose a compensation methodology which is commensurate with risk and service provided. The compensation methodology selection will be completed with the appropriate DOD agency.

Enrollment

New applicants may enroll by obtaining a VISA application package (Form MA–1020 (OMB Approval No. 2133–0532)) from the Deputy Director, Office of Sealift Support, at the address indicated below. Form MA–1020 includes instructions for completing and submitting the application, blank VISA Application forms and a request for information regarding the operations and U.S. citizenship of the applicant company. A copy of the March 16, 2005 VISA will also be provided with the package. This information is needed in order to assist MARAD in making a determination of the applicant's eligibility. An applicant company must provide an affidavit that demonstrates that the company is qualified to document a vessel under 46 U.S.C., section 12102, and that it owns, or bareboat charters and controls, oceangoing, militarily useful vessel(s) for purposes of committing assets to the VISA program. As previously mentioned, VISA applicants must return the completed VISA application documents to MARAD not later than May 31, 2005. Once MARAD has reviewed the application and determined VISA eligibility, MARAD will sign the VISA application document which completes the eligibility phase of the VISA enrollment process.

After VISA eligibility is approved by MARAD and USTRANSCOM, approved applicants are required to execute a joint VISA Enrollment Contract (VEC) with the DOD [Military Surface Deployment and Distribution Command (SDDC) and the Military Sealift Command (MSC)] which will specify the participant's Stage III commitment for the period October 1, 2005 through September 30, 2006. Once the VEC is completed, the applicant completes the DOD contracting process by executing a Drytime Contingency Contract (DCC) with MSC (for Charter Operators) and if applicable, a VISA Contingency Contract (VCC) with SDDC (for Liner Operators).

For Additional Information and Applications Contact: Frances M. Olsen, Deputy Director, Office of Sealift Support, U.S. Maritime Administration, Room 7307, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366–2260. Fax (202) 493–2180. Other information about the VISA can be found on MARAD's Internet Web page at *http://www.marad.dot.gov.*

(Authority: 49 CFR 1.66)

By order of the Maritime Administrator.

Dated: April 26, 2005.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–8623 Filed 4–29–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Delays in Processing of Exemption Applications

AGENCY: Pipeline and Hazardous Materials Safety Administration, DOT.

ACTION: List of application delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of exemption applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified

FOR FURTHER INFORMATION CONTACT: Delmer Billings, Office of Hazardous Materials Exemptions and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4535.

Key to "Reason for Delay"

1. Awaiting additional information from applicant

2. Extensive public comment under review

3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis

4. Staff review delayed by other priority issues or volume of exemption applications

Meaning of Application Number Suffixes

N—New application

M—Modification request

X—Renewal

PM—Party to application with modification request

Dated: Issued in Washington, DC, on April 26, 2005.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials Safety Exemptions & Approvals.

Application No.	Applicant	Reason for delay	Estimated date of completion
13183–N	Becton Dickinson, Sandy, UT	4	06–30–2005
13188–N	General Dynamics, Lincoln, NE	4	06–30–2005
13422–N	Puritan Bennett, Plainfield, IN	3	05–31–2005
13266–N	Luxfer Gas Cylinders, Riverside, CA	4	06–30–2005
13314–N	Sunoco Inc., Philadelphia, PA	4	05–31–2005
13309–N	OPW Engineered Systems, Lebanon, OH	4	06–30–2005
13295–N	Taylor-Wharton, Harrisburg, PA	4	06–30–2005
13281–N	The Dow Chemical Company, Midland, MI	4	06–30–2005
13302–N	FIBA Technologies, Inc., Westboro, MA	4	05–31–2005
14010–N	Varsal, LLC, Warminster, PA	4	06–30–2005
14007–N	Scientific Cylinder International, LLC, Lakewood, CO	4	07–31–2005
13999–N	Kompozit-Praha s.r.o., Dysina u Plzne, Czech Republic, CZ	4	05–31–2005
14008–N	Air Products & Chemicals, Inc., Allentown, PA	4	05–31–2005
13958–N	Department of Defense, Fort Eustis, VA	1	06–30–2005
13957–N	T.L.C.C.I, Inc., Franklin, TN	4	05–31–2005
13858–N	US Ecology Idaho, Inc. (USEI), Grand View, ID	1	06–30–2005
13582–N	Linde Gas LLC (Linde), Independence, OH	4	06–30–2005
13563–N	Applied Companies, Valencia, CA	4	06–30–2005
13547–N	CP Industries, McKeesport, PA	4	06–30–2005
13346–N	Stand-By-Systems, Inc., Dallas, TX	1	06–30–2005
13347–N	ShipMate, Inc., Torrance, CA	4	06–30–2005
13341–N	National Propane Gas Association, Washington, DC	1	05–31–2005
Modification to Exemptions			
7277–M	Structural Composites Industries, Pomona, CA	4	05–31–2005
10878–M	Tankcon FRP Inc., Boisbriand, Qc	1, 3	05–31–2005
11579–M	Dyno Nobel, Inc., Salt Lake City, UT	4	05–31–2005
13488–M	FABER INDUSTRIES SPA, (U.S. Agent: Kaplan Industries, Maple Shade, NJ	4	06–30–2005
9969–M	Kin-Tek Laboratories, Inc., La Marque, TX	4	05–31–2005
13344–M	Precision Technik, Atlanta, GA	4	06–30–2005
12988–M	Air Products & Chemicals, Inc., Allentown, PA	4	05–31–2005
12783–M	CryoSurgery, Inc., Nashville, TN	4	05–31–2005
11526–M	BOC Gases Americas, Murray Hill, NJ	4	05–31–2005
12284–M	The American Traffic Safety Services, Assn. (ATSSA), Fredericksburg, VA	1	05–31–2005
10319–M	Amtrol, Inc., West Warwick, RI	4	05–31–2005
6263–M	Amtrol, Inc., West Warwick, RI	4	05–31–2005
11241–M	Rohm and Haas Co., Philadelphia, PA	1	05–31–2005
7280–M	Department of Defense, Ft. Eustis, VA	4	05–31–2005
10915–M	Luxfer Gas Cylinders (Composite Cylinder Division), Riverside, CA	1	05–31–2005
10019–M	Structural Composites Industries, Pomona, CA	4	05–31–2005
12022–M	Taylor-Wharton (Gas & Fluid Control Group), Harrisburg, PA	4	06–30–2005
8162–M	Structural Composites Industries, Pomona, CA	4	05–31–2005
8718–M	Structural Composites Industries, Pomona, CA	4	05–31–2005
Renewal of Exemptions			
9649–M	U.S. Department of Defense, Fort Eustis, VA	1	05–31–2005

[FR Doc. 05–8624 Filed 4–29–05; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–05–21019 (Notice No. 05–03)]

Hazardous Materials: Regulations for the Safe Transport of Radioactive Material (TS–R–1) and Advisory Material for the IAEA Regulations for the Safe Transport of Radioactive Materials (TS–G–1.1); Request for Comments

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Request for written comments.

SUMMARY: PHMSA will accept written comments pertaining to 28 proposed changes to the International Atomic Energy Agency's (IAEA) Regulations for the Safe Transport of Radioactive Materials, TS–R–1, scheduled for revision in the year 2007 as well as written comments on the proposed changes to the Advisory Material for the IAEA Regulations for the Safe Transport of Radioactive Materials, TS–G–1.1.

DATES: Written comments must be received by July 1, 2005. Comments received after this date will be considered if it is practical to do so.

ADDRESSES: You may submit comments identified by the docket number (PHMSA–05–21019 (Notice No. 05–03)) by any of the following methods:

- Web Site: *http://dms.dot.gov*. Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management System; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–402, Washington, DC 20590–001.
- Hand Delivery: To the Docket Management System; Room PL–402 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this notice. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act heading under **SUPPLEMENTARY INFORMATION**.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to the Docket Management System (see **ADDRESSES**).

FOR FURTHER INFORMATION CONTACT: Mr. Michael Conroy, Office of Hazardous Material Technology, U.S. Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590–0001; (202) 366–3597; *Michael.Conroy@phmsa.dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of this notice is to request public comments on the transport regulation changes proposed by the International Atomic Energy Agency (IAEA) as part of its ongoing regulatory review process. On April 7, 2005, the IAEA released for comment 28 proposed changes to the requirements of the 2005 Edition of the Agency's Regulations for the Safe Transport of Radioactive Material (TS–R–1) (see *http://hazmat.dot.gov/regs/files/IAEA Draft Changes.htm*). Comments submitted in response to this notice will be used to develop U.S. positions on the 28 proposed changes for the IAEA regulatory review meeting scheduled for September 5–9, 2005 in Vienna, Austria.

Any changes ultimately adopted by the IAEA may necessitate domestic compatibility rulemakings at a later date. Note that future domestic rulemakings, if necessary, will continue to follow established rulemaking procedures, including the opportunity to formally comment on proposed rules.

As part of its regulatory review process, the IAEA also reviews and revises as necessary, the accompanying advisory and explanatory material in TS–G–1.1. We are also requesting public comments on these changes to the advisory material.

The following documents are available for viewing and downloading on the Internet at: *http://hazmat.dot.gov/regs/files/IAEA Draft Changes.htm.*

- Table of the regulatory changes proposed by the IAEA
- A consolidated draft of the proposed TS–R–1 revisions
- A standard comment form for the proposed TS–R–1 revisions
- Table of the advisory material changes proposed by the IAEA
- A Consolidated draft of the proposed TS–G–1.1 revisions
- A standard comment form for the proposed TS–G–1.1 revisions

Although not required, electronic submission using the above referenced comment form is preferred. Note that proposals for additional changes to the regulations or the advisory material, beyond those listed in the above documents, are not being requested at this time.

II. Public Participation

Comments should identify the docket number (PHMSA–05–21019 (Notice No. 05–03)) and if sent by mail, comments are to be submitted in two copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. Internet users may access all comments received by the U.S. Department of Transportation at *http://dms.dot.gov.*

III. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or may visit *http://dms.dot.gov*.

Issued in Washington, DC, on April 22, 2005.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 05–8716 Filed 4–29–05; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34688]

Carrizo Gorge Railway, Inc.—Trackage Rights Exemption—Union Pacific Railroad Company

Union Pacific Railroad Company (UP) has agreed to grant trackage rights to Carrizo Gorge Railway, Inc. (CZRY) over UP's line of railroad between milepost 129.61 at or near Plaster City, and milepost 140.00 at or near Seeley, a distance of approximately 10.39 miles in Imperial County, CA.

The transaction was scheduled to be consummated on or after April 21, 2005.

The purpose of the trackage rights is to achieve operating economies and to improve rail service by making interchange between CZRY and UP more efficient.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights, BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34688, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, 208 South LaSalle Street, Suite 1890, Chicago, IL 60604–1112.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov*.''

Decided: April 25, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–8667 Filed 4–29–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 251X) and STB Docket No. AB–383 (Sub–No. 4X)] and Union Pacific Railroad Company—Abandonment Exemption—in Dane County, WI; AB–383 (Sub-No. 4X)]

Wisconsin & Southern Railroad Company—Discontinuance of Service Exemption—in Dane County, WI

Union Pacific Railroad Company (UP) and Wisconsin & Southern Railroad Company (WSOR) have jointly filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* for UP to abandon and WSOR to discontinue service over a 4.4-mile line of railroad, known as the Central Soya Line, Harvard Subdivision, between milepost 85.5 in the City of Madison and milepost 89.9 in the City of Fitchburg, in Dane County, WI. The line traverses United States Postal Service Zip Codes 53711, 53717, and 53719.

UP and WSOR have certified that: (1) No local traffic has moved over the line for at least 2 years prior to the date of the filing of the notice and any overhead traffic on the line can be rerouted over other lines; (2) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on June 1, 2005, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c))(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by May 12, 2005. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 23, 2005, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicants' representatives: Mack H. Shumate, Attorney for Union Pacific Railroad Company, 101 N. Wacker Drive, Suite 1920, Chicago, IL 60606; and John D. Heffner, John D Heffner, PLLC, Attorney for Wisconsin & Southern Railroad Company, Suite 800, 1920 N Street NW., Washington, DC 20036

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

UP and WSOR have filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by May 6, 2005. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by May 2, 2006, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *''http://www.stb.dot.gov.''*

Decided: April 21, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–8518 Filed 4–29–05; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1,200. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Public Meeting of the President's Advisory Panel on Federal Tax Reform

AGENCY: Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice advises all interested persons of the location of the May 11–12, 2005, public meeting of the President's Advisory Panel on Federal Tax Reform. This meeting was previously announced in 70 FR 21493 (April 26, 2005).

DATES: The meeting will be held on Wednesday, May 11, 2005, and Thursday, May 12, 2005. The meeting will begin at 9:30 a.m. on both days.

ADDRESSES: The meeting will be held at the National Transportation Safety Board Conference Center Auditorium, 429 L'Enfant Plaza, SW., Washington, DC 20594. Seating will be available to the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: The Panel staff at (202) 927–2TAX (927–2829) (not a toll-free call) or e-mail *info@taxreformpanel.gov* (please do not send comments to this box). Additional information is available at *http://www.taxreformpanel.gov.*

Dated: April 28, 2005.

Mark S. Kaizen,

Designated Federal Officer.

[FR Doc. 05–8770 Filed 4–29–05; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Public Meeting of the President's Advisory Panel on Federal Tax Reform

AGENCY: Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice advises all interested persons of a public meeting of

the President's Advisory Panel on Federal Tax Reform.

DATES: The meeting will be held on Tuesday, May 17, 2005, in the Washington DC area and will begin at 9:30 a.m.

ADDRESSES: The venue has not been identified to date. Venue information will be posted on the Panel's Web site at *http://www.taxreformpanel.gov* as soon as it is available.

FOR FURTHER INFORMATION CONTACT: The Panel staff at (202) 927–2TAX (927–2829) (not a toll-free call) or email *info@taxreformpanel.gov* (please do not send comments to this box). Additional information is available at *http://www.taxreformpanel.gov.*

SUPPLEMENTARY INFORMATION: *Purpose:* The May 17 meeting is the ninth meeting of the Advisory Panel. At this meeting, the Panel will continue to evaluate specific proposals for reform of the tax code.

Comments: Interested parties are invited to attend the meeting; however, no public comments will be heard at the meeting. Any written comments with respect to this meeting may be mailed to The President's Advisory Panel on Federal Tax Reform,1440 New York Avenue, NW., Suite 2100, Washington, DC 20220. All written comments will be made available to the public.

Records: Records are being kept of Advisory Panel proceedings and will be available at the Internal Revenue Service's FOIA Reading Room at 1111 Constitution Avenue, NW., Room 1621, Washington, DC 20024. The Reading Room is open to the public from 9 a.m. to 4 p.m., Monday through Friday except holidays. The public entrance to the reading room is on Pennsylvania Avenue between 10th and 12th streets. The phone number is (202) 622–5164 (not a toll-free number). Advisory Panel documents, including meeting announcements, agendas, and minutes, will also be available on *http://www.taxreformpanel.gov.*

Dated: April 28, 2005.

Mark S. Kaizen,

Designated Federal Officer.

[FR Doc. 05–8771 Filed 4–29–05; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–251701–96]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–251701–96 (TD 8894), Electing Small Business Trusts.

DATES: Written comments should be received on or before July 1, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6510, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Electing Small Business Trusts.

OMB Number: 1545–1591.

Regulation Project Number: REG–251701–96.

Abstract: This regulation provide the rules for an electing small business trust (ESBT), which is a permitted shareholder of and S corporation. With respect to the collections of information, the regulations provide the rules for making an ESBT election, and the rules for converting from a qualified subchapter S trust (QSST) to an ESBT and the conversion of an ESBT to a QSST. The regulations allow certain S corporations to reinstate their previous taxable year that was terminated under § 1.444–2T by filing Form 8716.

Current Actions: There are no changes being made to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 7,500.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 7,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 22, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–2063 Filed 4–29–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TREASURY

Internal Revenue Service

Information Reporting Program Advisory Committee (IRPAC); Nominations

AGENCY: Internal Revenue Service, Department of Treasury

ACTION: Request for nominations.

SUMMARY: The Internal Revenue Service (IRS) requests nominations of individuals to be considered for selection as Information Reporting Program Advisory Committee (IRPAC) members. Interested parties may nominate themselves and/or at least one other qualified person for membership. Nominations will be accepted for current vacancies and should describe and document the applicants qualifications for membership. IRPAC can be comprised of no more than twenty-three (23) members and currently consists of seventeen (17) members. It is important that the IRPAC

continue to represent a diverse taxpayer and stakeholder base. Accordingly, to maintain membership diversity, selection is based on applicant's qualifications as well as the segment or group he/she represents.

The Information Reporting Program Advisory Committee (IRPAC) advises the IRS on information reporting issues of mutual concern to the private sector and the federal government. The committee works with the Commissioner and other IRS executives to provide recommendations on a wide range of information reporting administration issues. Membership is balanced to include representation from the tax professional community, small and large businesses, state tax administration, and the payroll community.

DATES: Written nominations must be received on or before June 30, 2005.

ADDRESSES: Nominations should be sent to Ms. Caryl Grant, National Public Liaison, CL:NPL:SRM, Room 7566 IR, 1111 Constitution Avenue, NW., Washington, DC 20224, Attn: IRPAC Nominations; or by e-mail: *public_liaison@irs.gov.* Applications may be submitted by mail to the address above or faxed to 202–622–8345. However, if submitted via a facsimile, the original application must be received by mail, as National Public Liaison cannot consider an applicant nor process his/her application prior to receipt of an original signature. Application packages are available on the Tax Professional's Page, which is located on the IRS Internet Web site at *http://www.irs.gov;/taxpros/index.html.* Application packages may also be requested by telephone from National Public Liaison, 202–927–3641 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Ms. Caryl Grant, 202–927–3641 (not a toll-free number).

SUPPLEMENTARY INFORMATION: IRPAC was established in 1991 in response to an administrative recommendation in the final Conference Report of the Omnibus Budget Reconciliation Act of 1989. Since its inception IRPAC has worked closely with the IRS to provide recommendations on a wide range of issues intended to improve the information reporting program and achieve fairness to taxpayers. IRPAC members are drawn from and represent a broad sample of the payer community, including major professional and trade associations, colleges and universities, and state taxing agencies.

Conveying the public's perception of IRS activities to the Commissioner, the IRPAC is comprised of individuals who bring substantial, disparate experience and diverse backgrounds on the Committee's activities. Membership is balanced to include representation from the taxpaying public, the tax professional community, small and large businesses, state tax administration, and the payroll community.

IRPAC members are appointed by the Commissioner and serve a term of three years. The Commissioner determines the size of the IRPAC and the organizations represented on the Committee. Working groups mirror the reorganized IRS and address policies and administration issues specific to the four Operating Divisions. Members are not paid for their services. However, travel expenses for working sessions, public meetings and orientation sessions, such as airfare, per diem, and transportation to and from airports, train stations, etc., are reimbursed within prescribed federal travel limitations.

Receipt of nominations will be acknowledged, nominated individuals contacted, and immediately thereafter, biographical information must be completed and returned to Ms. Caryl Grant in National Public Liaison within fifteen (15) days of receipt. In accordance with Department of Treasury Directive 21–03, a clearance process including, preappointment and annual tax checks, a Federal Bureau of Investigation criminal and subversive name check, and a security clearance will be conducted.

Equal opportunity practices will be followed for all appointments to the IRPAC in accordance with the Department of Treasury and IRS policies. To ensure that the recommendations of the IRPAC have taken into account the needs of the diverse groups served by the IRS, membership shall include individuals who demonstrate the ability to represent minorities, women, and persons with disabilities.

Dated: April 20, 2005.

Cynthia Vanderpool,

Designated Federal Official, National Public Liaison.

[FR Doc. 05–8641 Filed 4–29–05; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Earned Income Tax Credit Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Earned Income Tax Credit Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Committee will be discussing issues pertaining to the IRS administration of the Earned Income Tax Credit.

DATES: The meeting will be held Thursday, May 19, 2005.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 (toll-free), or (718) 488–2085 (non toll-free).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Earned Income Tax Credit Committee of the Taxpayer Advocacy Panel will be held Thursday, May 19, 2005 from 2 p.m. to 3:30 p.m. e.t. via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made in advance by contacting Audrey Y. Jenkins. To confirm attendance or for more information, Ms. Jenkins may be reached at 1–888–912–1227 or (718) 488–2085. If you would like a written statement to be considered, send written comments to Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201 or post your comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: April 22, 2005.

Martha Curry,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E5–2064 Filed 4–29–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 2 Taxpayer Advocacy Panel (Including the States of Delaware, North Carolina, South Carolina, New Jersey, Maryland, Pennsylvania, Virginia, West Virginia and the District of Columbia)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 2 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting

public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, May 24, 2005, from 1:30 p.m. to 3 p.m. e.t.

FOR FURTHER INFORMATION CONTACT: Inez E. De Jesus at 1–888–912–1227, or (954) 423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 2 Taxpayer Advocacy Panel will be held Tuesday, May 24, 2005 from 1:30 p.m. to 3 p.m. e.t. via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or (954) 423–7977, or write Inez E. De Jesus, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Inez E. De Jesus. Ms. De Jesus can be reached at 1–888–912–1227 or (954) 423–7977, or post comments to the Web site: *http://www.improveirs.org*.

The agenda will include the following: Various IRS issues.

Dated: April 22, 2005.

Martha Curry,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E5–2066 Filed 4–29–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request—Annual Thrift Satisfaction Survey

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. The Office of Thrift Supervision within the Department of the Treasury will submit the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. Today, OTS is soliciting public comments on its proposal to extend this information collection.

DATES: Submit written comments on or before July 1, 2005.

ADDRESSES: You may send comments, referring to the collection by title of the proposal or by OMB approval number, to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; send a facsimile transmission to (202) 906–6518; or send an e-mail to *infocollection.comments@ots.treas.gov*. OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov*. In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov*, or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: You can request additional information about this proposed information collection from Lori Quigley, Assistant Managing Director, Examinations and Supervision Operations, (202) 906–6265, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Comments should address one or more of the following points:

a. Whether the proposed collection of information is necessary for the proper performance of the functions of OTS;

b. The accuracy of OTS's estimate of the burden of the proposed information collection;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use of information technology.

We will summarize the comments that we receive and include them in the OTS request for OMB approval. All comments will become a matter of public record. In this notice, OTS is soliciting comments concerning the following information collection.

Title of Proposal: Annual Thrift Satisfaction Survey.

OMB Number: 1550–0087.

Form Number: None assigned.

Regulation requirement: N/A.

Description: This survey is needed to help OTS evaluate the effectiveness of the services it provides to thrifts.

Type of Review: Renewal.

Affected Public: Federal Savings Associations.

Estimated Number of Respondents: 200.

Estimated Frequency of Response: Annually.

Estimated Burden Hours per Response: .25 hours.

Estimated Total Burden: 50 hours.

Clearance Officer: Marilyn K. Burton, (202) 906–6467, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Mark Menchik, (202) 395–3176, Office of Management and Budget, Room 10236, New Executive Office Building, Washington, DC 20503.

Dated: April 25, 2005.

By the Office of Thrift Supervision.

James E. Gilleran,

Director.

[FR Doc. 05–8647 Filed 4–29–05; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on CARES Business Plan Studies; Amended Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Public Law 92–463 (Federal Advisory Committee Act) that the Advisory Committee on CARES Business Plan Studies has changed the meeting previously scheduled at the Municipal Auditorium, 310 East 3rd Street, Big Spring, TX 79720, on Friday, May 13, 2005, from 8 a.m. until 12 noon and from 5 p.m. until 9 p.m., to Wednesday, May 18, 2005, from 8 a.m. until 4 p.m., same location. The meeting is open to the public.

The purpose of the Committee is to provide advice to the Secretary of Veterans Affairs on proposed business plans at those VA facility sites identified in May 2004 as requiring further study by the Capital Asset Realignment for Enhanced Services (CARES) Decision document.

The agenda at each meeting will include presentations on objectives of the CARES project and the project's timeframes. Additional presentations will focus on the VA-selected contractor's methodology and tools to develop business plan options, as well as the methodology for gathering and evaluating stakeholder input. The agenda will also accommodate public commentary on site-specific issues.

Interested persons may attend and present oral or written statements to the Committee. For additional information regarding the meetings, please contact Mr. Jay Halpern, Designated Federal Officer, (00CARES), 810 Vermont Avenue, NW., Washington, DC 20024 by phone at (202) 273–5994, or by e-mail at *jay.halpern@hq.med.va.gov*.

Dated: April 25, 2005.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 05–8711 Filed 4–29–05; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Monday,
May 2, 2005

Part II

National Credit Union Administration

12 CFR Part 748

Security Program and Appendix B—Guidance on Response Programs for Unauthorized Access to Member Information and Member Notice; Final Rule

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 748

Security Program and Appendix B—Guidance on Response Programs for Unauthorized Access to Member Information and Member Notice

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is amending its rule governing security program elements to require federally insured credit unions to include response programs to address instances of unauthorized access to member information. NCUA is also including guidance, in the form of Appendix B, to provide federally insured credit unions with direction on ways to meet the new regulatory requirements.

DATES: This rule is effective on June 1, 2005.

FOR FURTHER INFORMATION CONTACT: Matthew J. Biliouris, Senior Information Systems Officer, Office of Examination & Insurance, Division of Supervision, at telephone (703) 518–6394; or Ross Kendall, Staff Attorney, Office of General Counsel, at telephone (703) 518–6562.

SUPPLEMENTARY INFORMATION: The contents of this preamble are listed in the following outline:

I. Introduction
II. Overview of the Comments Received
III. Overview of the Final Guidance
IV. Section-by-Section Analysis of the Comments Received
A. The ''Background'' Section
B. The ''Response Program'' Section
C. The ''Member Notice'' Section
V. Effective Date
VI. Impact of Guidance
VII. Regulatory Analysis
A. Paperwork Reduction Act
B. Regulatory Flexibility Act
C. Executive Order 12866
D. Unfunded Mandates Act of 1995

I. Introduction

In 2001, NCUA amended 12 CFR Part 748 to fulfill a requirement in Section 501 of the Gramm-Leach-Bliley Act (Pub. L. 106–102) (GLBA), in which Congress directed both NCUA and the other Federal Financial Institution Examination Council (FFIEC) agencies, including the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision (collectively, the ''Banking Agencies'') to establish standards for financial institutions relating to administrative, technical, and physical safeguards to: (1) Insure the security and confidentiality of customer records and information; (2) protect against any anticipated threats or hazards to the security or integrity of such records; and (3) protect against unauthorized access to or use of such records or information that could result in substantial harm or inconvenience to any customer.

Although NCUA worked with the Banking Agencies to develop the standards described above, the Banking Agencies issued their standards as guidelines under the authority of Section 39 of the Federal Deposit Insurance Act.

Since Section 39 of the Federal Deposit Insurance Act does not apply to NCUA, the NCUA Board determined that it could best meet the congressional directive to prescribe standards through an amendment to its existing regulation governing security programs for federally insured credit unions and by providing guidance to credit unions, substantially identical to the guidelines issued by the Banking Agencies, in an appendix to the regulation. 12 CFR Part 748, Appendix A; 66 FR 8152 (January 30, 2001). The preamble to the final rule discusses the different regulatory framework under which the Banking Agencies issued their guidelines. The final regulation requires each federally insured credit union to establish and maintain a security program implementing the safeguards required by GLBA.

Appendix A, entitled Guidelines for Safeguarding Member Information (Appendix A), is intended to outline industry best practices and assist credit unions to develop meaningful and effective security programs to ensure compliance with the requirements contained in the regulation. Among other things, Appendix A advises credit unions to: (1) Identify reasonably foreseeable internal and external threats that could result in unauthorized disclosure, misuse, alteration, or destruction of member information or member information systems; (2) assess the likelihood and potential damage of these threats, taking into consideration the sensitivity of member information; and (3) assess the sufficiency of policies, procedures, member information systems, and other arrangements in place to control risks.[1]

On October 23, 2003, the NCUA Board approved a proposal to revise 12 CFR Part 748 to include a requirement to respond to incidents of unauthorized access to member information. The Board invited comment on all aspects of the proposed Guidance. The public comment period closed on December 29, 2003.

This final rule further amends Part 748 to require that every federally insured credit union have a security program that contains a provision for responding to incidents of unauthorized access to member information. Appendix B, entitled Guidance on Response Programs for Unauthorized Access to Member Information and Member Notice, is also provided to assist credit unions in developing and maintaining their response programs. Appendix B describes NCUA's expectation that every federally insured credit union develop a response program, including member notification procedures, to address unauthorized access to or use of member information that could result in substantial harm or inconvenience to a member.

NCUA has modified the proposed Guidance to provide credit unions with greater flexibility to design a risk-based response program tailored to the size, complexity and nature of its operations, while continuing to highlight member notice as a key feature of a credit union's response program. In addition, NCUA reorganized the proposed Guidance for greater clarity. A more detailed discussion of the changes follows.

II. Overview of Comments Received

NCUA received 15 comment letters on the proposed Guidance: Six from natural person credit unions, one from a corporate credit union, two from national credit union trade associations, five from state credit union leagues, and one from a service provider. In addition, the Banking Agencies collectively received 65 comment letters. While the NCUA Board carefully considered all comments on its proposed rule, to remain as consistent as practicable with the Banking Agencies, the Board has also made some changes in the final rule as a result of interagency discussions.

As a general matter, commenters agreed that credit unions should have response programs. Indeed, many credit unions and other financial institutions described having such programs in place. Many comments received commended the NCUA and the Banking Agencies for providing guidance on response programs. However, the majority of industry commenters criticized the prescriptive nature of the proposed Guidance. These commenters stated that the rigid approach in the proposed Guidance would stifle innovation and retard the effective evolution of response programs.

[1] 12 CFR Part 748, Appendix A, Paragraph III.B.2.

Industry commenters raised concerns that the specific requirements in the proposed Guidance would not permit a credit union to assess different situations from its own business perspective, specific to its size, operational and system structure, and risk tolerances.

Some industry commenters asserted that there is no need for regulation in this area and recommended that the NCUA and the Banking Agencies withdraw the proposed Guidance. Some of these commenters suggested, instead, that the Agencies re-issue the proposed Guidance as a best practices document. Other industry commenters suggested modifying the proposed Guidance to give credit unions greater discretion to determine how to respond to incidents of unauthorized access to or use of member information.

Two commenters also requested that the Agencies include a transition period allowing adequate time for financial institutions to implement the final Guidance. Some commenters asked for a transition period only for the aspects of the final Guidance that address service provider arrangements.

III. Overview of Final Guidance

The final rule requires that every federally insured credit union must develop and implement a response program designed to address incidents of unauthorized access to member information maintained by the credit union or its service provider. The final Guidance provides each credit union with greater flexibility to design a risk-based response program tailored to the size, complexity and nature of its operations.

The final Guidance, which has been reorganized for greater clarity, continues to highlight member notice as a key feature of a credit union's response program. However, in response to the comments received, the final Guidance modifies the standard describing when notice should be given and provides for a delay at the request of law enforcement. It also modifies which members should be given notice, what a notice should contain, and how it should be delivered.

A more detailed discussion of the final Guidance and the manner in which it incorporates comments NCUA and the Banking Agencies received follows.

IV. Section-by-Section Analysis of the Comments Received

A. The ''Background'' Section

Legal Authority

The legal foundation for the Guidance is set forth in Part 748, which derives from section 501(b) of GLBA and requires that every credit union have a security program. Appendix A to Part 748 describes the elements of a security program and includes measures to protect member information maintained by the credit union or its service providers. The Guidance states that NCUA expects member notification to be a component of such a response program.

One commenter questioned NCUA's and the Banking Agencies' legal authority to issue the Guidance. This commenter asserted that section 501(b) of GLBA only authorizes the Agencies to establish standards requiring financial institutions to safeguard the confidentiality and integrity of customer information and to protect that information from unauthorized access, but does not authorize standards that would require a response to incidents where the security of customer information actually has been breached.

The NCUA Board notes, however, that section 501(b)(3) specifically states that the standards to be established by the Agencies must include various safeguards to protect against not only ''unauthorized access to,'' but also, the ''use of'' customer information that could result in ''substantial harm or inconvenience to any customer.'' The NCUA Board determined that this language provides a legal basis for standards that include response programs to address incidents of unauthorized access to member information. Response programs represent the principal means for a credit union to protect against unauthorized ''use'' of member information that could lead to ''substantial harm or inconvenience'' to the member. For example, member notification is an important tool that enables a member to take steps to prevent identity theft, such as by arranging to have a fraud alert placed in his or her credit file.

Scope of Guidance

The proposed Guidance contained several cross references to definitions used in Appendix A. However, the NCUA Board did not specifically address the scope of the proposed Guidance. A number of commenters had questions and suggestions regarding the scope of the proposed Guidance and the meaning of terms used.

Entities and Information Covered

Some commenters had questions about the entities and information covered by the proposed Guidance. One commenter suggested that NCUA and the Banking Agencies clarify that foreign offices, branches, and affiliates of United States banks are not subject to the final Guidance. Another commenter wanted the NCUA Board to clarify corporate credit unions' responsibilities relating to the Guidance. This commenter wanted to know if corporate credit unions would be expected to follow the same practices of that of a service provider and notify affected natural person credit unions.

Some commenters recommended that the Agencies clarify that the final Guidance only applies to unauthorized access to sensitive information within the control of the financial institution. One commenter thought that the final Guidance should be broad and cover fraud committed against credit union members through the Internet, such as through the misuse of online corporate identities to defraud online banking users through fake web sites (commonly known as ''phishing''). Several commenters requested confirmation in the final Guidance that it applies to consumer accounts and not to business and other commercial accounts.

For greater clarity, NCUA has revised the Background section of the final Guidance to state that the scope and definitions of terms used in the Guidance are identical to those in section 501(b) of the GLBA and Appendix A, which largely cross-reference definitions used in NCUA's Privacy Rule.[2] Therefore, consistent with section 501(b) and Appendix A, this final Guidance applies to the entities enumerated in section 505(a) of the GLBA. This final Guidance does not apply to a credit union's foreign offices, branches, or CUSOs. However, a credit union is responsible for the security of its member information, whether the information is maintained within or outside of the United States, and whether or not it relies on a CUSO to provide certain member services.

As with the guidance contained in Appendix A, natural person credit unions that use corporate credit unions as their ''service providers'' will likely look to the final Guidance in overseeing their service provider arrangements with those corporate credit unions. Accordingly, there is no exemption for corporate credit unions that provide services to natural person credit unions as part of normal processing business.

The final Guidance also applies to ''member information,'' meaning any record containing ''nonpublic personal information'' (as that term is defined in section 716.3(n) of NCUA's Privacy rule) about a credit union's member, whether in paper, electronic, or other form, that

[2] 12 CFR Part 716.

is maintained by or on behalf of the institution.[3] Consequently, the final Guidance applies only to information that is within the control of the credit union and its service providers, and would not apply to information directly disclosed by a member to a third party, for example, through a fraudulent web site.

Moreover, the final Guidance does not apply to information involving business or commercial accounts. Instead, the final Guidance applies to nonpublic personal information about a ''member'' within the meaning of Appendix A, namely, a consumer who obtains a financial product or service from a credit union to be used primarily for personal, family, or household purposes, and who has a continuing relationship with the credit union.[4]

Effect of Other Laws

Several commenters requested NCUA and the Banking Agencies explain how the final Guidance interacts with additional and possibly conflicting state law requirements. Most of these commenters urged that the final Guidance expressly preempt state law. By contrast, one commenter asked the Agencies to clarify that a financial institution must also comply with additional state law requirements. In addition, some commenters asked that the final Guidance provide a safe harbor defense against class action law suits. They suggested that the safe harbor should cover any credit union that takes reasonable steps that regulators require to protect member information, but, nonetheless, experiences an event beyond its control that leads to the disclosure of member information.

These issues do not fall within the scope of this final Guidance. The extent to which section 501(b) of GLBA, Appendix A, and any related NCUA interpretations, such as this final Guidance, preempts state law is governed by Federal law, including the procedures set forth in section 507 of GLBA, 15 U.S.C. 6807.[5] Moreover, there is nothing in Title V of the GLBA that authorizes NCUA to provide credit unions with a safe harbor defense. Therefore, the final Guidance does not address these issues.

Organizational Changes in the ''Background'' Section

For the reasons described earlier, the Background section is adopted essentially as proposed, except that the latter part of the paragraph on ''Service Providers'' and the entire paragraph on ''Response Programs'' are incorporated into the introductory discussion of Section II. The NCUA Board believes that the Background section is now clearer, as it focuses solely on the statutory and regulatory framework upon which the final Guidance is based. Comments and changes with respect to the paragraphs that were relocated are discussed in the next section.

B. The ''Response Program'' Section

There are a number of differences between the discussion of Response Programs in the proposed and final Guidance. The introduction to section II of the proposed Guidance stated that a response program should be a key part of a credit union's information security program required under Part 748. It also described the importance of having a response program and of timely notification of members when warranted. Section II of the proposed Guidance contained four detailed paragraphs describing each of the four components that a response program should contain.

The introductory language in the final Guidance now emphasizes that a credit union's response program should be risk-based and describes the components of a response program in a less prescriptive manner. Section II in the final Guidance specifically states that a credit union should implement security measures, from among the itemized list in Appendix A, designed to prevent unauthorized access to or use of member information, such as by placing access controls on member information systems and conducting background checks[6] for employees who are authorized to access member information. It then states that NCUA expects every credit union to develop and implement a risk-based response program (another security measure enumerated in Appendix A) designed to address incidents of unauthorized access to member information that occur despite measures to prevent security breaches. The final Guidance also states that a response program should be a key part of a credit union's information security program.

This introductory paragraph is intended to make clear that, based upon the prevalence of identity theft in the United States,[7] every credit union should have a response program to be prepared to prevent and address attempts to gain unauthorized access to its member information. The Board's expectation that each credit union will develop a response program is consistent with the provision in Appendix A calling for each credit union to design an information security program to control ''identified risks'' stemming from ''reasonably foreseeable internal and external threats.''[8]

Service Provider Contracts

The Background section of the proposed Guidance elaborated on the specific provisions that a credit union's contracts with its service providers should contain. The proposed Guidance stated that a credit union's contract with its service provider should require the service provider to disclose fully to the credit union information related to any breach in security resulting in an unauthorized intrusion into the credit union's member information systems maintained by the service provider. It stated that this disclosure would permit a credit union to expeditiously implement its response program.

Several commenters on the proposed Guidance agreed that a credit union's contracts with its service providers should require the service provider to disclose fully to the credit union information related to any breach in security resulting in an unauthorized intrusion into the credit union's member information systems maintained by the service provider. However, many commenters suggested modifications to this provision.

The discussion of this aspect of a credit union's contracts with its service providers is in section II of the final Guidance. It has been revised as follows in response to the comments received.

Timing of Service Provider Notification

NCUA and the Banking Agencies received a number of comments regarding the timing of a service

[3] *See* 12 CFR Part 745, Appendix A, Paragraph I.C.2.c.

[4] *See* 12 CFR Part 748, Appendix A, Paragraph I.C.2.b.; 12 CFR Part 716.3(i).

[5] Section 507 provides that state laws that are ''inconsistent'' with the provisions of Title V, Subtitle A of the GLBA are preempted ''only to the extent of the inconsistency.'' State laws are ''not consistent'' if they offer greater protection than Subtitle A, as determined by the Federal Trade Commission, after consultation with the agency or authority with jurisdiction under Section 505(a) of either the person that initiated the complaint or that is the subject of the complaint. *See* 15 U.S.C. 6807.

[6] A footnote has been added to this section to make clear that credit unions should also conduct background checks of employees to ensure that the credit union does not violate 12 U.S.C. 1785(d), which prohibits an institution from hiring an individual convicted of certain criminal offenses or who is subject to a prohibition order under 12 U.S.C. 1786(g).

[7] See, for example, the Federal Trade Commission's Identity Theft Survey Report of September 2003,'' available at *http://www.ftc.gov/os/2003/09synovatereport.pdf* estimating that 10 million Americans were victims of identify theft in 2002.

[8] 12 CFR Part 748, Appendix A, Paragraph III.B. and III.C.

provider's notice to a credit union. One commenter suggested requiring service providers to report incidents of unauthorized access to credit unions within 24 hours after discovery of the incident.

In response to comments on the timing of a service provider's notice to a credit union, the final Guidance states that a credit union's contract with its service provider should require the service provider to take appropriate action to address incidents of unauthorized access to the credit union's member information, including notifying the credit union as soon as possible of any such incident, to enable the credit union to expeditiously implement its response program. The NCUA Board determined that requiring notice within 24 hours of an incident may not be practicable or appropriate in every situation, particularly where, for example, it takes a service provider time to investigate a breach in security. Therefore, the final Guidance does not specify a number of hours or days by which the service provider must give notice to the credit union.

Existing Contracts With Service Providers

Some commenters expressed concerns that they would have to rewrite their contracts with service providers to require the disclosure described in this provision. These commenters asked NCUA to grandfather existing contracts and to apply this provision only prospectively to new contracts. Many commenters also suggested that the final Guidance contain a transition period to permit credit unions to modify their existing contracts.

The NCUA Board has decided not to grandfather existing contracts or to add a transition period to the final Guidance because, as stated in the proposed Guidance, this disclosure provision is consistent with the obligations in Appendix A that relate to service provider arrangements and with existing guidance on this topic previously issued by NCUA.[9] In order to ensure the safeguarding of member information, credit unions that use service providers likely have already arranged to receive notification from the service providers when member information is accessed in an unauthorized manner. In light of the comments received, however, NCUA recognizes that there are credit unions that have not formally included such a disclosure requirement in their contracts. Where this is the case, the credit union should exercise its best efforts to add a disclosure requirement to its contracts and any new contracts should include such a provision.

Thus, the final Guidance adopts the discussion on service provider arrangements largely as proposed. To eliminate any ambiguity regarding the application of this section to foreign-based service providers, however, the final Guidance now makes clear that a covered credit union[10] should be capable of addressing incidents of unauthorized access to member information in member information systems maintained by its domestic and foreign service providers.[11]

Components of a Response Program

As described earlier, commenters criticized the prescriptive nature of proposed Section II that described the four components a response program should contain. The proposed Guidance instructed credit unions to design programs to respond to incidents of unauthorized access to member information by (1) assessing the situation; (2) notifying regulatory and law enforcement agencies; (3) containing and controlling the situation; and (4) taking corrective measures. The proposed Guidance contained detailed information about each of these four components.

The introductory discussion in this section of the final Guidance now makes clear that, as a general matter, a credit union's response program should be risk-based. It applies this principle by modifying the discussion of a number of these components. The NCUA Board determined that the detailed instructions in these components of the proposed Guidance, especially in the ''Corrective Measures'' section, would not always be relevant or appropriate. Therefore, the final Guidance describes, through brief, bulleted points, the elements of a response program, giving credit unions greater discretion to address incidents of unauthorized access to or use of member information that could result in substantial harm or inconvenience to a member.

At a minimum, a credit union's response program should contain procedures for (1) assessing the nature and scope of an incident, and identifying what member information systems and types of member information have been accessed or misused; (2) notifying the appropriate NCUA Regional Director and, in the case of state-chartered credit unions, its applicable state supervisory agency as soon as possible when the credit union becomes aware of an incident involving unauthorized access to or use of sensitive member information, as defined in the final Guidance, (3) immediately notifying law enforcement authorities in situations involving Federal criminal violations requiring immediate attention; (4) taking appropriate steps to contain and control the incident to prevent further unauthorized access to or use of member information, such as by monitoring, freezing, or closing affected accounts, while preserving records and other evidence; and (5) notifying members when warranted.

Assess the Situation

The proposed Guidance stated that a credit union should assess the nature and scope of the incident and identify what member information systems and types of member information have been accessed or misused.

Some commenters stated that NCUA and the Banking Agencies should retain this provision in the final Guidance. One commenter suggested that a credit union should focus its entire response program primarily on addressing unauthorized access to sensitive member information.

The NCUA Board has concluded that a credit union's response program should begin with a risk assessment that allows a credit union to establish the nature of any information improperly accessed. This will allow the credit union to determine whether and how to respond to an incident. Accordingly, the NCUA Board has not changed this provision.

Notify Regulatory and Law Enforcement Agencies

The proposed Guidance provided that a credit union should promptly notify NCUA when it becomes aware of an incident involving unauthorized access to or use of member information that could result in substantial harm or inconvenience to members. To clarify its expectations, the NCUA Board has amended the bullet point addressing notification of the regulator to include notification of the appropriate NCUA Regional Director, as well as any applicable state supervisory agency in the case of state-chartered credit unions.

In addition, the proposed Guidance stated that a credit union should file a Suspicious Activity Report (SAR), if required, in accordance with 12 CFR

[9] *See* FFIEC Information Technology Examination Handbook, Outsourcing Technology Services Booklet, June 2004; NCUA Letter to Credit Unions No. 00–CU–11, December 2000.

[10] *See* footnote 5, *supra*.

[11] *See e.g.*, FFIEC Information Technology Examination Handbook, Outsourcing Technology Services Booklet, June 2004.

Part 748 and various NCUA issuances.[12] The proposed Guidance stated that, consistent with the NCUA's SAR regulation, in situations involving Federal criminal violations requiring immediate attention, the credit union immediately should notify, by telephone, the appropriate law enforcement authorities and its primary regulator, in addition to filing a timely SAR. For the sake of clarity, the final Guidance discusses notice to regulators and notice to law enforcement in two separate, bulleted items.

Standard for Notice to Regulators

The provision regarding notice to regulators in the proposed Guidance prompted numerous comments. Many commenters suggested that NCUA adopt a narrow standard for notifying regulators. These commenters were concerned that notice to regulators, provided under the circumstances described in the proposed Guidance, would be unduly burdensome for credit unions, service providers, and regulators, alike.

Some of these commenters suggested that NCUA adopt the same standard for notifying regulators and members. These commenters recommended that notification occur when a credit union becomes aware of an incident involving unauthorized access to or use of ''sensitive member information,'' a defined term in the proposed Guidance that specified a subset of member information deemed by NCUA as most likely to be misused.

Other commenters recommended that the Agencies narrow this provision so that a credit union will inform a regulator only in connection with an incident that poses a significant risk of substantial harm to a significant number of its members, or only in a situation where substantial harm to members has occurred or is likely to occur, instead of when it could occur.

Other commenters who advocated the adoption of a narrower standard asked NCUA to take the position that filing an SAR constitutes sufficient notice and that notification of other regulatory and law enforcement agencies is at the sole discretion of the credit union. One commenter stated that it is difficult to imagine any scenario that would trigger the response program without requiring a SAR filing. Some commenters asserted that if NCUA believes a lower threshold is advisable for security breaches, it should amend Part 748.

By contrast, some commenters recommended that the standard for notification of regulators remain broad. One commenter advocated that any event that triggers an internal investigation by the credit union should require notice to the appropriate regulator. Another commenter similarly suggested that notification of all security events to federal regulators is critical, not only those involving unauthorized access to or use of member information that could result in substantial harm or inconvenience to its members.

The NCUA Board has concluded that the standard for notification to regulators should provide an early warning to allow NCUA or applicable state supervisory agency to assess the effectiveness of a credit union's response plan, and, where appropriate, to direct that notice be given to members if the credit union has not already done so. Thus, the standard in the final Guidance states that a credit union should notify its primary regulator as soon as possible if the credit union becomes aware of an incident involving unauthorized access to or use of ''sensitive member information.''

''Sensitive member information'' is defined in section III of the final Guidance and means a member's name, address, or telephone number, in conjunction with the member's social security number, driver's license number, account number, credit or debit card number, or a personal identification number or password that would permit access to the member's account. ''Sensitive member information'' also includes any combination of components of member information that would allow someone to log onto or access the member's account, such as user name and password or password and account number.

This standard is narrower than that in the proposed Guidance because a credit union will need to notify NCUA when, and only if, it becomes aware of an incident involving ''sensitive member information.'' Therefore, under the final Guidance, there will be fewer occasions when a credit union should need to notify NCUA. However, under this standard, a credit union will need to notify NCUA at the time that the credit union initiates its investigation to determine the likelihood that the information has been or will be misused, so that NCUA will be able to take appropriate action, if necessary.

Notice to Regulators by Service Providers

Commenters on the proposed Guidance questioned whether a credit union or its service provider should give notice to a regulator when a security incident involves an unauthorized intrusion into the credit union's member information systems maintained by the service provider. One commenter noted that if a security event occurs at a large service provider, regulators could receive thousands of notices from institutions relating to the same event. The commenter suggested that if a service provider is examined by one of the Agencies the most efficient means of providing regulatory notice of such a security event would be to allow the servicer to notify its primary Agency contact. The primary Agency contact then could disseminate the information to the other regulatory agencies as appropriate.

The NCUA Board believes it is the responsibility of the credit union and not the service provider to notify NCUA. Therefore, the final Guidance states that a credit union should notify NCUA as soon as possible when the credit union becomes aware of an incident involving unauthorized access to or use of sensitive member information. Nonetheless, a security incident at a service provider could have an impact on multiple financial institutions that are supervised by different Federal regulators. Therefore, in the interest of efficiency and burden reduction, the last paragraph in section II of the final Guidance makes clear that a credit union may authorize or contract with its service provider to notify the NCUA on the credit union's behalf when a security incident involves an unauthorized intrusion into the credit union's member information systems maintained by the service provider.

Notice to Law Enforcement

Some commenters took issue with the provision in the proposed Guidance regarding notification of law enforcement by telephone. One interagency commenter asked the Banking Agencies to clarify how notification of law enforcement by telephone would work since in many cases it is unclear what telephone number should be used. This commenter maintained that size and sophistication of law enforcement authorities may differ from state to state and this requirement may create confusion and unwarranted action by the law enforcement authority.

The final Guidance adopts this provision as proposed. The NCUA

[12] *See* 12 CFR Part 748.1(c); NCUA Letter to Credit Unions No. 04–CU–03, Suspicious Activity Reports, March 2004; NCUA Regulatory Alert No. 04–RA–01, The Suspicious Activity Report (SAR) Activity Review—Trends, Tips, & Issues, Issue 6, November 2003, February 2004.

Board notes that the provision stating that a credit union should notify law enforcement by telephone in situations involving federal criminal violations requiring immediate attention is consistent with Part 748.

Contain and Control the Situation

The proposed Guidance stated that the credit union should take measures to contain and control a security incident to prevent further unauthorized access to or use of member information while preserving records and other evidence.[13] It also stated that, depending upon the particular facts and circumstances of the incident, measures in connection with computer intrusions could include: (1) Shutting down applications or third party connections; (2) reconfiguring firewalls in cases of unauthorized electronic intrusion; (3) ensuring that all known vulnerabilities in the credit union's computer systems have been addressed; (4) changing computer access codes; (5) modifying physical access controls; and (6) placing additional controls on service provider arrangements.

Few comments were received on this section. One interagency commenter suggested that the Banking Agencies adopt this section unchanged in the final Guidance. Another commenter had questions about the meaning of the phrase ''known vulnerabilities.'' Commenters did, however, note the overlap between proposed section II.C and the corrective measures in proposed section II.D, described as ''flagging accounts'' and ''securing accounts.''

NCUA and the Banking Agencies agree that some sections in the proposed Guidance overlapped. Therefore, the NCUA Board modified this section by incorporating concepts from the proposed Corrective Measures component, and removing the more specific examples in this section, including the terms that confused commenters. This section in the final Guidance gives a credit union greater discretion to determine the measures it will take to contain and control a security incident. It states that credit unions should take appropriate steps to contain and control the incident to prevent further unauthorized access to or use of member information, such as, by monitoring, freezing, or closing affected accounts, while preserving records and other evidence.

Preserving Evidence

One interagency commenter stated that the final Guidance should require financial institutions, as part of the response process, to have an effective computer forensics capability in order to investigate and mitigate computer security incidents as discussed in principle fourteen of the Basel Committee's ''Risk Management for Electronic Banking''[14] and the International Organization for Standardization's ISO 17799.[15]

The NCUA Board notes that the final Guidance addresses not only computer security incidents, but also all other incidents of unauthorized access to member information. Thus, the Board thinks it is not appropriate to include more detail about steps a credit union should take to investigate and mitigate computer security incidents. However, the NCUA Board believes that credit unions should be mindful of industry standards when investigating an incident. Therefore, the final Guidance contains a reference to forensics by generally noting that a credit union should take appropriate steps to contain and control an incident, while preserving records and other evidence.

Corrective Measures

The proposed Guidance stated that once a credit union understands the scope of the incident and has taken steps to contain and control the situation, it should take measures to address and mitigate the harm to individual members. It then described three corrective measures that a credit union should include as a part of its response program in order to effectively address and mitigate harm to individual members: (1) Flagging accounts; (2) securing accounts; and (3) notifying members. The NCUA Board removed the first two corrective measures for the reasons that follow.

Flagging and Securing Accounts

The first corrective measure in the proposed Guidance directed credit unions to ''flag accounts.'' It stated that a credit union should immediately begin identifying and monitoring the accounts of those members whose information may have been accessed or misused. It also stated that a credit union should provide staff with instructions regarding the recording and reporting of any unusual activity, and if indicated given the facts of a particular incident, implement controls to prevent the unauthorized withdrawal or transfer of funds from member accounts.

The second corrective measure directed credit unions to ''secure accounts.'' The proposed Guidance stated that when a share draft, savings, or other member account number, debit or credit card account number, personal identification number (PIN), password, or other unique identifier has been accessed or misused, the credit union should secure the account and all other accounts and services that can be accessed using the same account number or name and password combination. The proposed Guidance stated that accounts should be secured until such time as the credit union and the member agree on a course of action.

Commenters were critical of these proposed measures. Several commenters asserted that the final Guidance should not prescribe responses to security incidents with this level of detail. Other commenters recommended that if NCUA chooses to retain references to ''flagging'' or ''securing'' accounts, it should include the words ''where appropriate'' in order to give credit unions the flexibility to choose the most effective solutions to problems.

Commenters also stated that the decision to flag accounts, the nature of the flag, and the duration of the flag, should be left to an individual credit union's risk-based procedures developed under Appendix A. These commenters asked NCUA to recognize that regular, ongoing fraud prevention and detection methods employed by a credit union may be sufficient.

Commenters representing small credit unions stated that they do not have the technology or other resources to monitor individual accounts. They stated that the financial impact of having to monitor accounts for unusual activity would be enormous, as each credit union would have to purchase expensive technology, hire more personnel, or both. These commenters asked NCUA to provide credit unions with the flexibility to close an account if the credit union detects unusual activity.

With respect to ''securing accounts,'' several commenters stated that if ''secure'' means close or freeze, either is extreme and would have significant adverse consequences for members. Other commenters stated that the requirement that the credit union and the member ''agree on a course of action'' is unrealistic, unworkable and should be eliminated. Some commenters explained that if a member is traveling and the credit union cannot contact the member to obtain the member's consent, freezing or closing a

[13] *See* FFIEC Information Security Booklet, December. 2002, pp. 68–74, avaialble at *http://www.ffiec.gov/ffiecinfobase.html_pages/it_01.html#infosec.*

[14] *http://www.bis.org/publ/bcbs35.htm.*

[15] *http://www.iso.org/iso/en/prods-services/popstds/informationsecurity.html.*

member's account could strand the member with no means of taking care of expenses. They stated that, in the typical case, the credit union would monitor such an account for suspicious transactions.

As described earlier, the NCUA Board is adopting an approach in the final Guidance that is more flexible and risk-based than that in the proposed Guidance. The final Guidance incorporates the general concepts described in the first two corrective measures into the brief bullets describing components of a response program enumerated in section II.C. Therefore, the first and second corrective measures no longer appear in the Guidance.

Member Notice and Assistance

The third corrective measure in the proposed Guidance is titled ''Member Notice and Assistance.'' This proposed measure stated that a credit union should notify and offer assistance to members whose information was the subject of an incident of unauthorized access or use under the circumstances described in section III of the proposed Guidance. The proposed Guidance also described which members should be notified. In addition, this corrective measure contained provisions discussing delivery and contents of the member notice.

The final Guidance now states that a credit union's response program should contain procedures for notifying members when warranted. For clarity's sake, the discussion of which members should be notified, and the delivery and contents of member notice, is now in new section III, titled ''Member Notice.'' Comments and changes with respect to the paragraphs that were relocated are discussed under the section titled ''Member Notice'' that follows.

Responsibility for Notice to Members

Some commenters were confused by the discussion in the proposed Guidance stating that a credit union's contract with its service provider should require the service provider to disclose fully to the credit union information related to any breach in security resulting in an unauthorized intrusion into the credit union's member information systems maintained by the service provider. Commenters stated that this provision appears to create an obligation for both credit unions and their service providers to provide notice of security incidents to the credit union's members. These commenters recommended that the service provider notify its credit union customer so that the credit union can provide appropriate notice to its members. Thus, members would avoid receiving multiple notices relating to a single security incident.

Other commenters asserted that a credit union should not have to notify its members if an incident has occurred because of the negligence of its service provider. These commenters recommended that in this situation, the service provider should be responsible for providing notice to the credit union's members.

As discussed above in connection with notice to regulators, the NCUA Board believes that it is the responsibility of the credit union, and not of the service provider, to notify the credit union's members in connection with an unauthorized intrusion into a credit union's member information systems maintained by the service provider. The responsibility to notify members remains with the credit union whether the incident is inadvertent or due to the service provider's negligence. The NCUA Board notes that the costs of providing notice to the credit union's members as a result of negligence on the part of the service provider may be addressed in the credit union's contract with its service provider.

The last paragraph in section II of the final Guidance, therefore, states that it is the responsibility of the credit union to notify the credit union's members. It also states that the credit union may authorize or contract with its service provider to notify members on the credit union's behalf when a security incident involves an unauthorized intrusion into the credit union's member information systems maintained by the service provider.

C. The ''Member Notice'' Section

Section III of the proposed Guidance described the standard for providing notice to members and defined the term ''sensitive member information'' used in that standard. This section also gave examples of circumstances when a credit union should give notice and when NCUA does not expect a credit union to give notice. It also discussed contents of the notice and proper delivery.

Section III of the final Guidance contains a more comprehensive discussion of member notice. It describes the standard for providing notice to members and defines both the terms ''sensitive member information'' and ''affected members.'' It also discusses the contents of the notice and proper delivery.

Standard for Providing Notice

A key feature of the proposed Guidance was the description of when a credit union should provide member notice. The proposed Guidance stated that a credit union should notify affected members whenever it becomes aware of unauthorized access to ''sensitive member information'' unless the credit union, after an appropriate investigation, reasonably concludes that misuse of the information is unlikely to occur and takes appropriate steps to safeguard the interests of affected members, including by monitoring affected members' accounts for unusual or suspicious activity.

The NCUA Board proposed this standard as a way to strike a balance between notification to members every time the mere possibility of misuse of member information arises from unauthorized access and a situation where the credit union knows with certainty that information is being misused. However, the Board specifically requested comment on whether this is the appropriate standard and invited commenters to offer alternative thresholds for member notification.

Some commenters stated that the proposed standard was reasonable and sufficiently flexible. However, many commenters recommended that the Board provide credit unions with greater discretion to determine when a credit union should notify its members. Some of these commenters asserted that a credit union should not have to give notice unless the credit union believes it ''to be reasonably likely,'' or if circumstances indicated ''a significant risk'' that the information will be misused.

Commenters maintained that because the proposed standard states that a credit union should give notice when fraud or identity theft is merely possible, notification under these circumstances would needlessly alarm members where little likelihood of harm exists. Commenters claimed that, eventually, frequent notices in non-threatening situations will be perceived by members as routine and commonplace, and therefore reduce their effectiveness.

The NCUA Board believes that articulating as part of the Guidance a standard that sets forth when notice to members is warranted is both helpful and appropriate. However, the Board agrees with commenters and is concerned that the proposed threshold inappropriately required credit unions to prove a negative proposition, namely, that misuse of the information accessed

is unlikely to occur. In addition, the Board does not want members of credit unions to receive notices that would not be useful to them. Therefore, the NCUA Board has revised the standard for members notification.

The final Guidance provides that when a credit union becomes aware of an incident of unauthorized access to sensitive member information, the credit union should conduct a reasonable investigation to determine promptly the likelihood that the information has been or will be misused. If the credit union determines that misuse of the information has occurred or is reasonably possible, it should notify affected members as soon as possible.

An investigation is an integral part of the standard in the final Guidance. A credit union should not forego conducting an investigation to avoid reaching a conclusion that member information has been or will be misused and cannot unreasonably limit the scope of the investigation. However, the NCUA Board acknowledges that a full-scale investigation may not be necessary in all cases, such as where the facts readily indicate that information will or will not be misused.

Monitoring for Suspicious Activity

The proposed Guidance stated that a credit union need not notify members if it reasonably concludes that misuse of the information is unlikely to occur and takes appropriate steps to safeguard the interests of affected members, including by monitoring affected members' accounts for unusual or suspicious activity. A number of comments addressed the standard in the proposed Guidance on monitoring affected members' accounts for unusual or suspicious activity.

Some commenters stated that the final Guidance should grant credit unions the discretion to monitor the affected member accounts for a period of time and to the extent warranted by the particular circumstances. Some commenters suggested that monitoring occur during the investigation. One commenter noted that a credit union's investigation may reveal that monitoring is unnecessary. One commenter noted that monitoring the member's accounts at the credit union may not protect the member, because unauthorized access to member information may result in identity theft beyond the accounts held at the specific credit union.

The NCUA Board agrees that under certain circumstances, monitoring may be unnecessary, for example when, on the basis of a reasonable investigation, a credit union determines that information was not misused. The Board also agrees that the monitoring element may not protect the member. Indeed, an identity thief with unauthorized access to certain sensitive member information likely will open accounts at other financial institutions in the member's name.

Accordingly, the Board concludes that monitoring under the circumstances described in the standard for notice would be burdensome for credit unions without a commensurate benefit to members. For these reasons, the Board has removed the reference to monitoring in the final Guidance.

Timing of Notice

The proposed Guidance did not include specific language on the timing of notice to members, and NCUA and the Banking Agencies received many comments on this issue. Some commenters requested clarification of the time frame for member notice. One commenter recommended that NCUA adopt the approach in the proposed Guidance because it does not set forth any circumstances that may delay notification of the affected members. Another commenter maintained that, in light of a member's need to act expeditiously against identity theft, an outside limit of 48 hours after the credit union learns of the breach is a reasonable and timely requirement for notice to members. Many commenters, however, recommended that NCUA make clear that a credit union may take the time it reasonably needs to conduct an investigation to assess the risk resulting from a security incident.

The NCUA Board has responded to these various comments on the timing of notice by providing that a credit union notify an affected member ''as soon as possible'' after concluding that misuse of the member's information has occurred, or is reasonably possible. As the scope and timing of a credit union's investigation is dictated by the facts and circumstances of a particular case, the Board has not designated a specific number of hours or days by which credit unions should provide notice to members. The Board believes that doing so may inhibit a credit union's ability to investigate adequately a particular incident or may result in notice that is not timely.

Delay for Law Enforcement Investigation

The proposed Guidance did not address delay of notice to members while a law enforcement investigation is conducted. Many commenters recommended permitting a credit union to delay notification to members to avoid compromising a law enforcement investigation. These commenters noted that the California Database Protection Act of 2003 (CDPA) requires notification of California residents whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person.[16] However, the CDPA permits a delay in notification if a law enforcement agency determines that the notification will impede a criminal investigation.[17] Another commenter suggested that a credit union should not have to obtain a formal determination from a law enforcement agency before it is able to delay notice.

The NCUA Board agrees that it is appropriate to delay member notice if such notice will jeopardize a law enforcement investigation. However, to ensure that such a delay is necessary and justifiable, the final Guidance states that member notice may be delayed if an appropriate law enforcement agency determines that notification will interfere with a criminal investigation and provides the credit union with a written request for the delay.[18]

The NCUA Board is concerned that a delay of notification for a law enforcement investigation could interfere with the ability of members to protect themselves from identity theft and other misuse of their sensitive information. Thus, the final Guidance also provides that a credit union should notify its members as soon as notification will no longer interfere with the investigation and should maintain contact with the law enforcement agency that has requested a delay, in order to learn, in a timely manner, when member notice will no longer interfere with the investigation.

Sensitive Member Information

Scope of Standard

The Banking Agencies received many comments on the limitation of notice in the proposed Guidance to incidents involving unauthorized access to sensitive customer information. The NCUA Board invited comment on whether to modify the proposed standard for notice to apply to other circumstances that compel a credit union to conclude that unauthorized access to information, other than sensitive member information, likely

[16] The CDPA, also known as CA S.B. 1386, amended the Information Practices Act of 1977, California Civil Code, section 1798.82.

[17] *See* California Civil Code, section 1798.29(c).

[18] This includes circumstances when a credit union confirms that an oral request for delay from law enforcement will be followed by a written request.

will result in substantial harm or inconvenience to the affected members.

Most commenters recommended that the standard remain as proposed rather than covering other types of information. One interagency commenter suggested that the Agencies continue to allow a financial institution the discretion to notify affected customers in any other extraordinary circumstances that compel it to conclude that unauthorized access to information other than sensitive customer information likely will result in substantial harm or inconvenience to those affected. However, the commenter did not provide any examples of such extraordinary circumstances.

The NCUA Board continues to believe that the rationale for limiting the standard to sensitive member information expressed in the proposed Guidance is correct. The proposed Guidance explained that, in accordance with Appendix A, a credit union must protect against unauthorized access to or use of member information that could result in substantial harm or inconvenience to a member. Substantial harm or inconvenience is most likely to result from improper access to sensitive member information because this type of information is easily misused, as in the commission of identity theft.

The NCUA Board has not identified any other circumstances that should prompt member notice and continues to believe that it is not likely that a member will suffer substantial harm or inconvenience from unauthorized access to other types of information. Therefore, the standard in the final Guidance continues to be limited to unauthorized access to sensitive member information. Of course, a credit union still may send notices to members in any additional circumstances that it determines are appropriate.

Definition of Sensitive Member Information

NCUA received many comments on the proposed definition of ''sensitive member information'' in the proposed Guidance. The first part of the proposed definition stated that ''sensitive member information'' is a member's social security number, personal identification number (PIN), password or account number, in conjunction with a personal identifier such as the member's name, address, or telephone number. The second part of the proposed definition stated that ''sensitive member information'' includes any combination of components of member information that allow someone to log onto or access another person's account, such as user name and password.

Some commenters agreed with this definition of ''sensitive member information.'' They said that it was sound, workable, and sufficiently detailed. However, many commenters proposed additions, exclusions, or alternative definitions.

Additional Elements

Some commenters suggested that NCUA add various data elements to the definition of sensitive member information, including: A driver's license number or number of other government-issued identification, mother's maiden name, and date of birth. One commenter suggested inclusion of other information that credit unions maintain in their member information systems such as a member's account balance, account activity, purchase history, and investment information. The commenter noted that misuse of this information in combination with a personal identifier can just as easily result in substantial harm or inconvenience to a member.

The NCUA Board has added to the first part of the definition several more specific components, such as driver's license number and debit and credit card numbers, because this information is commonly sought by identity thieves. However, the Board determined that the second part of the definition would cover the remaining suggestions. For example, where date of birth or mother's maiden name are used as passwords, under the final Guidance they will be considered components of member information that allow someone to log onto or access another person's account. Therefore, these specific elements have not been added to the definition.

Exclusions

Commenters also asserted that the proposed definition of sensitive member information is too broad and proposed various exclusions. For example, some commenters asked NCUA to exclude publicly available information, and also suggested that the final Guidance apply only to account numbers for transaction accounts or other accounts from which withdrawals or transfers can be initiated. These commenters explained that access to a mortgage account number (which may also be a public record) does not permit withdrawal of additional funds or otherwise damage the member. Other commenters requested that NCUA exclude encrypted information. Some of these commenters noted that only unencrypted information is covered by the CDPA.[19]

The final Guidance does not adopt any of the proposed exclusions. The NCUA Board believes it would be inappropriate to exclude publicly available information from the definition of sensitive member information, where publicly available information is otherwise covered by the definition of ''member information.''[20] So for instance, while a personal identifier, *i.e.,* name, address, or phone number, may be publicly available, it is sensitive member information when linked with particular nonpublic information such as a credit card account number. However, where the definition of ''member information'' does not cover publicly available information, sensitive member information also would not cover publicly available information. For instance, where an individual's name or address is linked with a mortgage loan account number that is in the public record, and therefore, would not be considered ''member information,''[21] it also would not be considered sensitive member information for purposes of the final Guidance.

In addition, access to a member's personal information and account number, whether or not it is an account from which withdrawals or transfers can be initiated, may permit an identity thief to access other accounts from which withdrawals can be made. Thus, the NCUA Board has determined that the definition of account number should not be limited as suggested by commenters. The Board also believes that a blanket exclusion for all encrypted information is not appropriate, because there are many levels of encryption, some of which do not effectively protect member information.

Alternative Definitions

Most alternative definitions suggested by commenters resembled the definition of ''personal information'' under the CDPA.[22] Under the CDPA, ''personal information'' includes a resident of California's name together with an account number, or credit or debit card

[19] *See* California Civil Code, 1798.29(a).

[20] *See* 12 CFR Part 748, Appendix A, Paragraph I.C.2.c.

[21] *See* 12 CFR § 716.3(p)(3)(i).

[22] Under the California law requiring notice, ''personal information'' means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted: (1) Social security number; (2) driver's license number or California Identification Card number; (3) Account number, credit or debit card number, in combination with any required security code access code, or password that would permit access to an individual's financial account.

number only if the information accessed also includes any required security code, access code, or password that would permit access to an individual's financial account. Therefore, some commenters asked that the final Guidance clarify that a name and an account number, together, is not sensitive member information unless these elements are combined with other information that permits access to a member's financial account.

The NCUA Board concluded that it would be helpful if credit unions could more easily compare and contrast the definition of ''personal information'' under the CDPA with the definition of ''sensitive information'' under the final Guidance. Therefore, the elements in the definition of sensitive information in the final Guidance are re-ordered and the Board added the elements discussed earlier.

The final Guidance states that sensitive member information means a member's name, address, or telephone number, in conjunction with the member's social security number, driver's license number, account number, credit or debit card number, or a personal identification number or password that would permit access to the member's account. The final Guidance also states that sensitive member information includes any combination of components of member information that would allow someone to log onto or access the member's account, such as user name and password or a password and account number.

Consistent with the Banking Agencies, the NCUA Board declines to adopt the CDPA standard for several reasons. First, for example, under the CDPA, personal information includes a person's name in combination with other data elements. By contrast, the final Guidance treats address and telephone number in the same manner as a member's name, because reverse directories may permit an address or telephone number to be traced back to an individual member.

In addition, under the CDPA, ''personal information'' includes name together with an account number, or credit or debit card number only if the information accessed also includes any required security code, access code, or password that would permit access to an individual's financial account. The NCUA Board notes that a name and account number, alone, is sufficient to create fraudulent checks, or to direct the unauthorized debit of a member's account even without an access code.[23] Further, a name and credit card number may permit unauthorized access to a member's account. Therefore, the final Guidance continues to define a member's name and account number, or credit or debit card number as sensitive member information.

Affected Customers

The NCUA Board also reviewed many interagency comments on the definition of ''affected members'' in the proposed Guidance. Section II.D.3 of the proposed Guidance provided that if the credit union could determine from its logs or other data precisely which members' information was accessed or misused, it may restrict its notification to those individuals. However, if the credit union cannot identify precisely which members were affected, it should notify each member in any group likely to have been affected, such as each member whose information is stored in the group of files in question.

Commenters were concerned that this provision in the proposed Guidance was overly broad. These commenters stated that providing notice to all members in groups likely to be affected would result in many notices that are not helpful. The commenters suggested that the final Guidance narrow the standard for notifying members to only those members whose information has been or is likely to be misused.

The discussion of ''affected members'' has been relocated and is separately set forth following the definition of ''sensitive member information'' in the final Guidance. The discussion of ''affected members'' in the final Guidance states that if a credit union, based upon its investigation, can determine from its logs or other data precisely which member's information has been improperly accessed,[24] it may notify only those members with respect to whom the credit union determines that misuse of their information has occurred or is reasonably possible. However, the final Guidance further notes that there may be situations where the credit union determines that a group of files has been accessed improperly, but is unable to identify which specific member's information has been accessed. If the circumstances of the unauthorized access lead the credit union to determine that misuse of the information contained in the group of files is reasonably possible, it should notify all members in the group. In this way, the final Guidance reduces the number of notices that should be sent.

Examples

The proposed Guidance described several examples of when a credit union should give notice and when NCUA does not expect a credit union to give notice.

NCUA received a number of comments on the examples. Some commenters thought the examples were helpful and suggested that NCUA add more. Other commenters criticized the examples as too broad. Many commenters suggested numerous ways to modify and clarify the examples.

Since the examples in the proposed Guidance led to interpretive questions, rather than interpretive clarity, the NCUA Board concluded that it is not particularly helpful to offer examples of when notice is and is not expected. In addition, the Board believes that the standard for notice itself has been clarified and examples are no longer necessary. Therefore, there are no examples in the final Guidance.

Content of Member Notice

NCUA received many comments on the discussion of the content of member notice located in section II.D.3.b of the proposed Guidance. The proposed Guidance stated that a notice should describe the incident in general terms and the member's information that was the subject of unauthorized access or use. It stated that the notice should also include a number that members can call for further information and assistance, remind members of the need to remain vigilant over the next 12 to 24 months, and recommend that members promptly report incidents of suspected identity theft. The proposed Guidance described several ''key elements'' that a notice should contain. It also provided a number of ''optional elements'' namely, examples of additional assistance that financial institutions have offered.

Some commenters agreed that the proposed Guidance sufficiently addressed most of the key elements necessary for an effective notice. However, many commenters requested greater discretion to determine the content of the notices that credit unions provide to members. Commenters suggested that NCUA make clear that the various items suggested for inclusion in any member notice are

[23] *See, e.g.,* Griff Witte, *Bogus Charges, Unknowingly Paid: FTC Accuses 2 of Raiding 90,000 Bank Accounts in Card Fraud,* Washington Post, May 29, 2004, at E1 (list of names with associated checking account numbers used by bogus company to debit bank accounts without customer authorization).

[24] NCUA notes that system logs may permit a credit union to determine precisely which members' data has been improperly accessed. *See, e.g.,* FFIEC Information Security Booklet, page 64, available at *http://www.ffiec.gov/ffiecinfobase.html_pages/it_01.html#infosec.*

suggestions, and that not every item is mandatory in every notice.

Some commenters took issue with the enumerated items in the proposed Guidance identified as key elements that a notice should contain. For example, many commenters asserted that members should not necessarily be encouraged to place fraud alerts with credit bureaus in every circumstance. Some of these commenters noted that not all situations will warrant having a fraud alert posted to the member's credit file, especially if the credit union took appropriate action to render the information accessed worthless. According to these commenters, the consequences of a fraud alert, such as increased obstacles to obtaining credit, may outweigh any benefit. Some commenters also noted that a proliferation of fraud alerts not related to actual fraud would dilute the effectiveness of the alerts.

Other commenters criticized the optional elements in the proposed Guidance. For instance, some commenters stated that a notice should not inform the member about subscription services that provide notification to the member when there is a request for the member's credit report, or offer to subscribe the member to this service, free of charge, for a period of time. These commenters asserted that member notices should not be converted into a marketing opportunity for subscription services provided by consumer credit bureaus. They stated that offering the service may mislead the member into believing that these expensive services are essential. If the service is offered free of charge, a credit union's choice of service could be interpreted as an endorsement for a specific company and its product.

As a result of the Fair and Accurate Credit Transactions Act of 2003, Public Law 108–159, 117 Stat. 1985–86 (the FACT Act), many of the descriptions of ''key elements'' and ''optional elements'' in the proposed Guidance, and comments on these elements, have been superceded. For example, the frequency and circumstances under which a member may obtain a credit report free-of-charge have changed.

The final Guidance continues to specify that a notice should describe the incident in general terms and the member's information that was the subject of unauthorized access or use. It also continues to state that the notice should include a telephone number that members can call for further information and assistance, remind members of the need to remain vigilant over the next 12 to 24 months, and recommend that members promptly report incidents of suspected identity theft. In addition, the final Guidance also states that the notice should generally describe what the credit union has done to protect the members' information from further unauthorized access.

However, the final Guidance no longer distinguishes between certain other ''key'' items that the notice should contain and those that are ''optional.'' The NCUA Board added greater flexibility to this section to accommodate any new protections afforded to consumers that flow from the FACT Act. Instead of distinguishing between items that the notice should contain and those that are optional, a credit union may now select those items that are appropriate under the circumstances, and that are compatible with the FACT Act. Of course, credit unions may incorporate additional information that is not mentioned in the final Guidance, where appropriate.

Coordination With Credit Reporting Agencies

A trade association representing credit reporting agencies commented that its members are extremely concerned about their ability to comply with all of the duties (triggered under the FACT Act) that result from notices financial institutions send to their customers. This commenter strongly recommended that until a financial institution has contacted each nationwide consumer reporting agency to coordinate the timing, content, and staging of notices as well as the placement of fraud alerts, as necessary, a financial institution should refrain from issuing notices suggesting that customers contact nationwide consumer reporting agencies.

The commenter also stated that a financial institution that includes such suggestions in a notice to its customers should work with the credit reporting agencies to purchase the services the financial institution believes are necessary to protect its customers. The commenter stated that the costs of serving the millions of consumers it projects will receive notices under the proposed Guidance cannot be borne solely by the nationwide consumer reporting agencies.

The commenter also noted that the State of California has provided clear guidance in connection with its law requiring notice and also suggested that coordination with consumer reporting agencies is vital to ensure that a consumer can in fact request a file disclosure in a timely manner. This commenter stated that similar guidance at the federal level is essential.

The NCUA Board believes that the final Guidance addresses this commenter's concerns in several ways. First, for the reasons described earlier, the standard for member notice in the final Guidance likely will result in credit unions sending fewer notices. Second, the final Guidance does not require credit unions to send notices suggesting that consumers contact the nationwide consumer reporting agencies, in every case. Credit unions can use their discretion to determine whether such information should be included in a notice.

It is clear, however, that member notice may prompt more consumer contacts with consumer reporting agencies, as predicted by the commenter. Therefore, the final Guidance encourages a credit union that includes in its notice contact information for nationwide consumer reporting agencies to notify the consumer reporting agencies in advance, prior to sending large numbers of such notices. In this way, the reporting agencies will be on notice that they may have to accommodate additional requests for the placement of fraud alerts, where necessary.

Model Notice

Some commenters stated that if mandatory elements are included in the final Guidance, NCUA should develop a model notice that incorporates all the mandated elements yet allows credit unions to incorporate additional information where appropriate. Given the flexibility that credit unions now have to craft a notice tailored to the circumstances of a particular incident, the NCUA Board believes that any single model notice will be of little use. Therefore, the final Guidance does not contain a model notice.

Other Changes Regarding the Content of a Notice

The general discussion of the content of a notice in the final Guidance states that credit unions should give member notice in a ''clear and conspicuous manner.'' In addition, the final Guidance adopts a commenter's suggestion that credit unions should generally describe what the credit union has done to protect a member's information from further unauthorized access so that a member can make decisions regarding the credit union's member service. This addition allows a member to take measures to protect his or her accounts that are not redundant or in conflict with the credit union's actions.

The final Guidance also states that notice should include a telephone

number that members can call for further information and assistance. The NCUA Board added a new footnote to this text, which explains that the credit union should ensure that it has reasonable policies and procedures in place, including trained personnel, to respond appropriately to member inquiries and requests for assistance.

Delivery of Customer Notice

NCUA received numerous suggestions regarding the delivery of member notice located in section II.D.3.a of the proposed Guidance. The proposed Guidance stated that member notice should be timely, clear, and conspicuous, and delivered in any manner that will ensure that the member is likely to receive it. The proposed Guidance provided several examples of proper delivery and stated that a credit union may choose to contact all members affected by telephone or by mail, or for those members who conduct transactions electronically, using electronic notice.

One interagency commenter representing a large bank trade association agreed that this was a correct standard. However, many other commenters recommended that if it costs an institution more than $250,000 to provide notice to customers, if the affected class of persons to be notified exceeds 500,000, or if an incident warrants large distributions of notices, the final Guidance should permit various forms of mass distribution of information, such as by postings on an Internet web page and in national or regional media outlets. Commenters explained that the CDPA contains such a provision.[25]

One commenter suggested that a credit union should only provide notice in response to inquiries. By contrast, other commenters stated that the final Guidance should make clear that general notice on a web site is inadequate and that credit unions should provide individual notice to members.

The NCUA Board determined that the provision in the proposed Guidance that notice be delivered in a ''timely, clear, and conspicuous'' manner already appears elsewhere in the Guidance and is unnecessary here.

The NCUA Board has decided not to include a provision in the final Guidance that permits notice through a posting on the web or through the media in order to provide notice to a specific number of members or where the cost of notice to individual members would exceed a specific dollar amount. The Board believes that the thresholds suggested by commenters would not be appropriate in every case, especially in connection with incidents involving smaller institutions. Therefore, the final Guidance states that member notice should be delivered in any manner that is designed to ensure that a member can reasonably be expected to receive it. This standard places the responsibility on the credit union to select a method to deliver notice that is designed to ensure that a member is likely to receive notice.

The final Guidance also provides examples of proper delivery, noting that a credit union may choose to contact all members affected by telephone or by mail, or by electronic mail for those members for whom it has a valid e-mail address and who have agreed to receive electronic communications from the credit union. Some commenters questioned the effect of other laws on the proposed Guidance. A few commenters noted that electronic notice should conform to the requirements of the Electronic Signatures in Global and National Commerce Act (E-Sign Act), 15 U.S.C. 7001 *et seq.* The final Guidance does not discuss a credit union's obligations under the E-Sign Act. The NCUA Board notes that the final Guidance specifically contemplates that a credit union may give notice electronically or by telephone. There is no requirement that notice be provided in writing. Therefore, the final Guidance does not trigger any consent requirements under the E-Sign Act.[26]

Still other commenters requested clarification that a telephone call made to a member for purposes of complying with the final Guidance is for ''emergency purposes'' under the Telephone Consumer Protection Act, 47 U.S.C. 227 (TCPA). These commenters noted that this is important because under the TCPA and its implementing regulation,[27] it is unlawful to initiate a telephone call to any residential phone line using an artificial or prerecorded voice to deliver a message, without the prior express consent of the called party, unless such call is for ''emergency purposes.''

The final Guidance does not address the TCPA, because the TCPA is interpreted by the Federal Communications Commission (FCC), and the FCC has not yet taken a position on this issue.[28]

V. Effective date

Many commenters suggested that NCUA include a transition period to allow adequate time for credit unions to implement the final Guidance. In accordance with applicable federal law, the final amendment to Part 748 is effective thirty days after publication in the **Federal Register**.

In addition, given the comments received, the NCUA Board recognizes that not every credit union currently has a response program that is consistent with the final Guidance. The Board expects these credit unions to implement the final Guidance as soon as possible. However, the Board appreciates that some credit unions may need additional time to develop new compliance procedures, modify systems, and train staff in order to implement an adequate response program. The NCUA Board will take into account the good faith efforts made by each credit union to develop a response program that is consistent with the final Guidance, together with all other relevant circumstances, when examining the adequacy of a credit union's information security program.

VII. Impact of Guidance

The NCUA Board invited comment on the potential burden associated with the member notice provisions for credit unions implementing the proposed Guidance. The Board also asked for information about the anticipated burden that may arise from the questions posed by members who receive the notices. In addition, the proposed Guidance asked whether NCUA should consider how the burden

[25] *See* CAL. CIV. CODE § 1798.82(g)(3) (West 2005).

[26] Under the E-Sign Act, if a statute, regulation, or other rule of law *requires* that information be provided or made available to a consumer in writing, certain procedures apply. *See* 15 U.S.C. 7001(c).

[27] 47 CFR 64.1200.

[28] NCUA notes, however, that the TCPA and its implementing regulations generally exempt calls made to any person with whom the caller has an established business relationship at the time the call is made. *See, e.g.,* 47 CFR 64.1200(a)(1)(iv). Thus, the TCPA would not appear to prohibit a credit union's telephone calls to its own members. In addition, the FCC's regulations state that the phrase for ''emergency purposes'' means calls made necessary in any situation affecting the health and safety of consumers. 47 CFR 64.1200(f)(2). *See also* FCC Report and Order adopting rules and regulations implementing the TCPA, October 16, 1992, available at *http://www.fcc.gov/cgb/donotcall/,* paragraph 51 (calls from utilites to notify customers of service outages, and to warn customers of discontinuance of service are included within the exemption for emergencies). Credit unions will give members notice under the final Guidance for a public safety purpose, namely, to permit their members to protect themselves where their sensitive information is likely to be misused, example, to facilitate identity theft. Therefore, the NCUA Board believes that the exemption for emergency purposes likely would include member notice that is provided by telephone using an artificial or prerecorded voice message call.

may vary depending upon the size and complexity of a credit union. The Board also asked for information about the amount of burden, if any, the proposed Guidance would impose on service providers.

Although many commenters representing credit unions stated that they already have a response program in place, they also noted that NCUA had underestimated the burden that would be imposed on credit unions and their members by the proposed Guidance. Some commenters stated that the proposed Guidance would require greater time, expenditure, and documentation for audit and compliance purposes. Other commenters stated that the costs of providing notice and requiring a sufficient number of appropriately trained employees to be available to answer member inquiries and provide assistance could be substantial. Other commenters stated that the Agencies failed to adequately consider the burden to members and customers who begin to receive numerous notices of ''unauthorized access'' to their data. They stated that the stress to members of having to change account numbers, change passwords, and monitor their credit reports would be enormous and could be unnecessary because the standard in the proposed Guidance would require notice when information subject to unauthorized access might be, but would not necessarily be, misused.

Some commenters maintained that the proposed Guidance would be especially burdensome for small credit unions, which one commenter asserted are the lowest risk targets. These commenters stated that the most burdensome elements of the proposed Guidance would be creating a general policy, establishing procedures and training staff. They added that developing and implementing new procedures for determining when, where and how to provide notice and procedures for monitoring accounts would also be burdensome.

Finally, a trade association commenter stated that the notice requirements in the proposed Guidance would impose a large burden on the nationwide consumer reporting agencies, over which they have no control and from which they have no means of recouping costs.

The NCUA Board has addressed the burdens identified by commenters as follows. First, the Board eliminated many of the more prescriptive elements of the response program described in the proposed Guidance. The final Guidance states that a credit union's response program should be risk-based. It lists a number of components that the program should contain.

Second, final Guidance does not detail the steps that a credit union should take to contain and control a security incident to prevent further unauthorized access to or use of member information. It also does not state that a credit union should secure all accounts that can be accessed using the same account number or name and password combination until such time as the credit union and the member can agree on a course of action. Instead, the final Guidance leaves such measures to the discretion of the credit union and gives examples of the steps that a credit union should consider, such as monitoring, freezing, or closing affected accounts. Thus, under the final Guidance a small credit union may choose to close an affected account, rather than monitoring the account, an element of the proposed Guidance that smaller credit unions identified as potentially very costly.

Third, though the final Guidance still states that notification to regulators should be a part of a credit union's response program, it states that notice should only be given when the credit union becomes aware of an incident of unauthorized access to or use of ''sensitive'' member information. This standard should result in fewer instances of notice to the regulators than under the proposed Guidance. The final Guidance also makes clear that when the security incident involves a service provider, the credit union may authorize the service provider to notify the credit union's regulator.

Fourth, the standard of notice to members also has been modified to be less burdensome to credit unions and their members. The NCUA Board believes that under this new standard, members will be less likely to be alarmed needlessly, and credit unions will no longer be asked to prove a negative—namely, that misuse of information is unlikely to occur. In addition, the Board also has provided credit unions with greater discretion to determine what should be contained in a notice to members.

The NCUA Board does not believe that there is a basis for exempting small credit unions from the Guidance. For example, many small credit unions outsource functions to large service providers that have been the target of those seeking to misuse member information. Therefore, the Board believes that all credit unions should prepare member response programs including member notification procedures that can be used in the event the credit union determines that misuse of its information about a member has occurred or is reasonably possible. However, as noted above, the Board recognizes that within the framework of the Guidance, a credit union's program will vary depending on the size and complexity of the credit union and the nature and scope of its activities.

Finally, to address comments relating to the potential burden on the nationwide consumer reporting agencies, as noted previously, the Guidance no longer suggests that member notice always include advice to contact the nationwide consumer reporting agencies. The NCUA Board recognizes that not all security breaches warrant such contacts. For example, the Board recognizes that it may not always be in the best interest of a consumer to have a fraud alert placed in the consumer's file because the fraud alert may have an adverse impact on the consumer's ability to obtain credit.

VIII. Regulatory Procedures

Paperwork Reduction Act

Certain provisions of the final Guidance contain ''collection of information'' requirements as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA). An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The NCUA Board requested comment on a proposed information collection as part of the notice requesting comment on the proposed Guidance. An analysis of the comments related to paperwork burden and commenters' recommendations is provided below. The NCUA submitted its proposed information collection to OMB for review and approval and the collections have been approved.

The NCUA Board has reconsidered the burden estimates published in the Proposed Guidance in light of the comments received asserting that the paperwork burden associated with the information collection were underestimated, and in light of measures taken to reduce burden in this final Guidance. The Board agreed to increase the estimate for the time it will take a credit union to develop notices and determine which members should be notified. However, revisions incorporated into the final Guidance will result in the preparation and issuance of fewer notices than was originally estimated. Therefore, the net change in burden is due to the rounding of numbers. A discussion of the

comments received follows the revised estimates.

New Estimates

Number of Respondents: 9,014.
Estimated Time per Response:

Developing Notices: 24 hours × 9,014 = 216,336 hours.

Notifying Customers: 29 hours × 153 = 4,437 hours.

Total Estimated Annual Burden = 220,773 hours .

Discussion of Comments

The information collection in the proposed Guidance stated that credit unions should: (1) Develop notices to members; and (2) determine which members should receive the notices and send the notices to members. The NCUA Board and the Banking Agencies received various comments regarding the burden estimates, including the estimated time per response and the number of recordkeepers involved.

Some commenters stated that the burden estimates of twenty hours to develop and produce notices and three days to determine which members should receive notice in the proposed Guidance were too low. These commenters stated that the Guidance should include language indicating that a credit union be given as much time as necessary to determine the scope of an incident and examine which members may be affected. One of these commenters stated that ten business days, as recommended by the California Department of Consumer Affairs Office of Privacy Protection, should provide a credit union with a known safe harbor to complete the steps described lest regulated entities be subject to inconsistent notification deadlines from the same incident.

These commenters misunderstood the meaning of PRA burden estimates. PRA burden estimates are judgments by the NCUA regarding the length of time that it would take credit unions to comply with information collection requirements. These estimates do not impose a deadline upon credit unions to complete a requirement within a specific period of time.

The final Guidance states that a credit union should notify members ''as soon as possible'' after an investigation leads it to conclude that misuse of member information has occurred or is reasonably possible. It also states that notification may be delayed at the written request of law enforcement.

The cost of disclosing information is considered part of the burden of an information collection. 5 CFR 1320.3(b)(1)(ix). Many commenters stated that the Agencies had underestimated the cost associated with disclosing security incidents to members pursuant to the proposed Guidance. However, these commenters did not distinguish between the usual and customary costs of doing business and the costs of the disclosures associated with the information collection in the proposed Guidance.

For example, one commenter stated that the Agencies' estimate did not include $0.60 per member for a one-page letter, envelope, and first class postage; the customer service time, handling the enormous number of calls from customers who receive notice; or the costs associated with closing or reopening accounts, printing new checks or embossing new cards. This commenter stated that printing and mailing costs, alone, for one notice to its customer database, at current postal rates, would be at least $500,000.

Some of the costs mentioned in this comment are non-labor costs associated with providing disclosures. Both NCUA and the Banking Agencies assumed that non-labor costs associated with the disclosures would be negligible, because institutions already have in place well-developed systems for providing disclosures to their customers. This comment and any other comments received regarding the Agencies' assumptions about non-labor costs will be taken into account in any future estimate of the burden for this collection.

Other costs mentioned in this comment, such as the cost of customer service time, printing checks, and embossing cards, are costs that the institution would incur regardless of the implementation of the final Guidance. These costs are not associated with an information collection, and, therefore, have not been factored into the NCUA Board's cost estimates.

In addition, the estimates in this comment are based on the assumption that notice should always be provided by mail. However, the final Guidance states that credit unions should deliver member notice in any manner designed to ensure that a member can reasonably be expected to receive it, such as by telephone, mail, or electronically for those members for whom it has a valid e-mail address and who have agreed to receive communications electronically. The NCUA Board assumes that given this flexibility, credit unions may not necessarily choose to mail notices in every case, but may choose less expensive methods of delivery that ensure members will reasonably be expected to receive notice.

Another commenter concerned about the burdens imposed on consumer reporting agencies provided an example of a security breach involving a single company from which identifying information was stolen from about 500,000 military families. Among other things, the company's notice to its customers advised them to contact the nationwide consumer reporting agencies. The commenter stated that the nationwide consumer reporting agencies spent approximately $1.5 million per company, handling approximately 365,000 inquiries from the company's customers.

The final Guidance contains a number of changes that will diminish the costs identified by these commenters. First, the standard for notification in the final Guidance likely will result in fewer notices. In addition, the final Guidance no longer states that all notices should advise members to contact the nationwide consumer reporting agencies. Therefore, the NCUA Board estimates do not factor in the costs to the reporting agencies.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) (RFA) requires an agency to prepare a final regulatory flexibility analysis whenever the agency promulgates a final rule that may have a significant economic impact on a substantial number of small entities. As required by the RFA, the NCUA Board prepared and published an initial regulatory flexibility analysis at the time it issued the proposed rule amending § 748.0 and the proposed guidance in the form of Appendix B. This section contains the Board's final regulatory flexibility analysis.

A. Need for and Objectives of the Rule

As more fully discussed in the preamble to the final rule, section 501 of GLBA requires NCUA to publish standards for federally insured credit unions relating to their security programs to: (1) Insure the security and confidentiality of customer records and information; (2) protect against any anticipated threats or hazards to the security or integrity of such records; and (3) protect against unauthorized access to or use of such records or information that could result in substantial harm or inconvenience to any customer. The final rule establishes that federally insured credit unions must include a response program as an element of their security program, and the final Guidance describes the features that a response program should contain to ensure that breaches of security do not

result in harm or inconvenience to members.

B. Summary of Issues Raised by Public Comment

The NCUA Board received no public comment specifically responding to the initial regulatory flexibility analysis contained in the proposed rule. All federally insured credit unions, regardless of size, are subject to GLBA and the rule. The Board believes the changes in the final Guidance, including the standard for determining when to provide notice to members and the increased emphasis on risk-based factors, make the final Guidance easier for smaller credit unions to use. For example, smaller credit unions that offer a relatively less sophisticated array of products and services present a relatively lower level of risk of security breach affecting member information. For these credit unions, the final Guidance contemplates a relatively less comprehensive response program, commensurate with the relatively lower level of risk. Another example of flexibility benefiting smaller institutions relates to service providers. The final Guidance contemplates that, where a service provider maintains member information, a credit union may delegate authority to that service provider to notify members affected by a security breach on its behalf. The Board believes this flexibility is of particular benefit to smaller credit unions, which typically use service providers and may not have the resources to provide timely and effective notice themselves.

C. Consideration of Alternatives

All federally insured credit unions are already required by GLBA and existing regulation to develop and implement a security program. Development of an effective program involves: Assessing risks to member information; establishing policies, procedures, and training to control risks; testing the program's effectiveness; and managing and monitoring service providers. The NCUA Board believes establishing an information security program is a sound business practice for all credit unions and is already addressed by existing supervisory procedures. The final rule requires that security programs include a provision for appropriate responses to incidents involving a breach of information integrity. Consistent with the position taken by the Banking Agencies, the Board views this as a fundamental element of any information security program. Members of smaller credit unions are entitled to expect their personal financial information will be protected and that their credit union will respond appropriately and effectively to any breach of security. Ultimately, there is no alternative to requiring that all credit unions include an effective response program as an element of their security programs.

Nevertheless, the Board specifically solicited comment in the proposed rule on any significant alternatives, consistent with GLBA, that would minimize the impact on small credit unions. As more fully discussed in the preamble to the final rule and in the preceding section of this analysis, the final Guidance provides substantial flexibility so that any credit union, regardless of size, may adopt an information security program tailored to its individual needs.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. The final rule would not have substantial direct effects on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this final rule would not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We invite your comments on whether the final rule is understandable and minimally intrusive.

List of Subjects in 12 CFR Part 748

Credit unions, Crime, Currency, Reporting and recordkeeping requirements and Security measures.

By the National Credit Union Administration Board on April 14, 2005.

Mary F. Rupp,

Secretary of the Board.

■ For reasons set forth in the preamble, the NCUA Board proposes to amend 12 CFR 748 as follows:

PART 748—SECURITY PROGRAM, REPORT OF CRIME AND CATASTROPHIC ACT AND BANK SECRECY ACT COMPLIANCE

■ 1.The authority citation for part 748 reads as follows:

Authority: 12 U.S.C. 1766(a), 1786(Q); 15 U.S.C. 6801 and 6805(b); 31 U.S.C. 5311 and 5318.

■ 2.In § 748.0 revise paragraph (b) to read as follows:

§ 748.0 Security program.

* * * * * *

(b) The security program will be designed to:

(1) Protect each credit union office from robberies, burglaries, larcenies, and embezzlement;

(2) Ensure the security and confidentiality of member records, protect against the anticipated threats or hazards to the security or integrity of such records, and protect against unauthorized access to or use of such records that could result in substantial harm or serious inconvenience to a member;

(3) Respond to incidents of unauthorized access to or use of member information that could result in substantial harm or serious inconvenience to a member;

(4) Assist in the identification of persons who commit or attempt such actions and crimes, and

(5) Prevent destruction of vital records, as defined in 12 CFR part 749.

■ 3. Add Appendix B to read as follows:

Appendix B to Part 748—Guidance on Response Programs for Unauthorized Access to Member Information and Member Notice

I. Background

This Guidance in the form of Appendix B to NCUA's Security Program, Report of Crime and Catastrophic Act and Bank Secrecy Act Compliance regulation,[29] interprets section 501(b) of the Gramm-Leach-Bliley Act (''GLBA'') and describes response programs, including member notification procedures, that a federally insured credit union should develop and implement to address unauthorized access to or use of member information that could result in substantial harm or inconvenience to a member. The scope of, and definitions of terms used in,

[29] 12 CFR Part 748.

this Guidance are identical to those of Appendix A to Part 748 (Appendix A). For example, the term ''member information'' is the same term used in Appendix A, and means any record containing nonpublic personal information about a member, whether in paper, electronic, or other form, maintained by or on behalf of the credit union.

A. Security Guidelines

Section 501(b) of the GLBA required the NCUA to establish appropriate standards for credit unions subject to its jurisdiction that include administrative, technical, and physical safeguards to protect the security and confidentiality of member information. Accordingly, the NCUA amended Part 748 of its rules to require credit unions to develop appropriate security programs, and issued Appendix A, reflecting its expectation that every federally insured credit union would develop an information security program designed to:

1. Ensure the security and confidentiality of member information;

2. Protect against any anticipated threats or hazards to the security or integrity of such information; and

3. Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any member.

B. Risk Assessment and Controls

1. Appendix A directs every credit union to assess the following risks, among others, when developing its information security program:

a. Reasonably foreseeable internal and external threats that could result in unauthorized disclosure, misuse, alteration, or destruction of member information or member information systems;

b. The likelihood and potential damage of threats, taking into consideration the sensitivity of member information; and

c. The sufficiency of policies, procedures, member information systems, and other arrangements in place to control risks.[30]

2. Following the assessment of these risks, Appendix A directs a credit union to design a program to address the identified risks. The particular security measures a credit union should adopt will depend upon the risks presented by the complexity and scope of its business. At a minimum, the credit union should consider the specific security measures enumerated in Appendix A,[31] and adopt those that are appropriate for the credit union, including:

a. Access controls on member information systems, including controls to authenticate and permit access only to authorized individuals and controls to prevent employees from providing member information to unauthorized individuals who may seek to obtain this information through fraudulent means;

b. Background checks for employees with responsibilities for access to member information; and

c. Response programs that specify actions to be taken when the credit union suspects or detects that unauthorized individuals have gained access to member information systems, including appropriate reports to regulatory and law enforcement agencies.[32]

C. Service Providers

Appendix A advises every credit union to require its service providers by contract to implement appropriate measures designed to protect against unauthorized access to or use of member information that could result in substantial harm or inconvenience to any member.[33]

II. Response Program

i. Millions of Americans, throughout the country, have been victims of identity theft.[34] Identity thieves misuse personal information they obtain from a number of sources, including credit unions, to perpetrate identity theft. Therefore, credit unions should take preventative measures to safeguard member information against such attempts to gain unauthorized access to the information. For example, credit unions should place access controls on member information systems and conduct background checks for employees who are authorized to access member information.[35] However, every credit union should also develop and implement a risk-based response program to address incidents of unauthorized access to member information in member information systems that occur nonetheless.[36] A response program should be a key part of a credit union's information security program.[37] The program should be appropriate to the size and complexity of the credit union and the nature and scope of its activities.

ii. In addition, each credit union should be able to address incidents of unauthorized access to member information in member information systems maintained by its domestic and foreign service providers. Therefore, consistent with the obligations in this Guidance that relate to these arrangements, and with existing guidance on this topic issued by the NCUA,[38] a credit union's contract with its service provider should require the service provider to take appropriate actions to address incidents of unauthorized access to or use of the credit union's member information, including notification of the credit union as soon as possible of any such incident, to enable the institution to expeditiously implement its response program.

A. Components of a Response Program

1. At a minimum, a credit union's response program should contain procedures for the following:

a. Assessing the nature and scope of an incident, and identifying what member information systems and types of member information have been accessed or misused;

b. Notifying the appropriate NCUA Regional Director, and, in the case of state-chartered credit unions, its applicable state supervisory authority, as soon as possible when the credit union becomes aware of an incident involving unauthorized access to or use of sensitive member information as defined below.

c. Consistent with the NCUA's Suspicious Activity Report (''SAR'') regulations,[39] notifying appropriate law enforcement authorities, in addition to filing a timely SAR in situations involving Federal criminal violations requiring immediate attention, such as when a reportable violation is ongoing;

d. Taking appropriate steps to contain and control the incident to prevent further unauthorized access to or use of member information, for example, by monitoring, freezing, or closing affected accounts, while preserving records and other evidence;[40] and

e. Notifying members when warranted.

2. Where an incident of unauthorized access to member information involves member information systems maintained by a credit union's service providers, it is the responsibility of the credit union to notify the credit union's members and regulator. However, a credit union may authorize or contract with its service provider to notify the credit union's members or regulators on its behalf.

III. Member Notice

i. Credit unions have an affirmative duty to protect their members' information against

[30] *See* 12 CFR Part 748, Appendix A, Paragraph III.B.

[31] *See* Appendix A, paragraph III.C.

[32] *See* Appendix A, Paragraph III.C.

[33] *See* Appendix A, Paragraph III.B. and III.D. Further, the NCUA notes that, in addition to contractual obligations to a credit union, a service provider may be required to implement its own comprehensive information security program in accordance with the Safeguards Rule promulgated by the Federal Trade Commission (ldquo;FTC''), 12 CFR Part 314.

[34] The FTC estimates that nearly 10 million Americans discovered they were victims of some form of identify theft in 2002. *See* The Federal Trade Commission, *Identity Theft Survey Report,* (September 2003), available at *http://www.ftc.gov/os/2003/09synovatereport.pdf.*

[35] Credit unions should also conduct background checks of employees to ensure that the credit union does not violate 12 U.S.C. 1785(d), which prohibits a credit union from hiring an individual convicted of certain criminal offenses or who is subject to a prohibition order under 12 U.S.C. 1786(g).

[36] Under 12 CFR Part 748, Appendix A, a credit union's *member information systems* consists of all of the methods used to access, collect, store, use, transmit, protect, or dispose of member information, including the systems maintained by its service providers. *See* 12 CFR Part 748, Appendix A, Paragraph I.C.2.d.

[37] *See* FFIEC Information Technology Examination Handbook, Information Security Booklet, (December, 2002), available at *http://www.ffiec.gov/ffiecinfobase/html_pages/it_01.htm1#infosec,* for additional guidance on preventing, detecting, and responding to intrusions into financial institution computer systems.

[38] *See* FFIEC Information Technology Examination Handbook, Outsourcing Technology Services Booklet, (June 2004), available at *http://www.ffiec.gov/ffiecinfobase/html_pages/it_01.htm1#outscouring* for additional guidance on managing outsourced relationships.

[39] A credit union's obligation to file a SAR is set out in the NCUA's SAR regulations and guidance. *See* 12 CFR Part 748.1(c); NCUA Letter to Credit Unions No. 04–CU–03, Suspiciouis Activity Reports, March 2004; NCUA Regulatory Alert No. 04–RA–01, The Suspicious Activity Report (SAR) Activity Review—Trends, Tips, & Isues, Issue 6, November 2003, February 2004.

[40] *See* FFIEC Information Technology Examination Handbook, Information Security Booklet, (December 2002), pp. 68–74.

unauthorized access or use. Notifying members of a security incident involving the unauthorized access or use of the member's information in accordance with the standard set forth below is a key part of that duty.

ii. Timely notification of members is important to manage a credit union's reputation risk. Effective notice also may reduce a credit union's legal risk, assist in maintaining good member relations, and enable the credit union's members to take steps to protect themselves against the consequences of identity theft. When member notification is warranted, a credit union may not forgo notifying its customers of an incident because the credit union believes that it may be potentially embarrassed or inconvenienced by doing so.

A. Standard for Providing Notice

When a credit union becomes aware of an incident of unauthorized access to sensitive member information, the credit union should conduct a reasonable investigation to promptly determine the likelihood that the information has been or will be misused. If the credit union determines that misuse of its information about a member has occurred or is reasonably possible, it should notify the affected member as soon as possible. Member notice may be delayed if an appropriate law enforcement agency determines that notification will interfere with a criminal investigation and provides the credit union with a written request for the delay. However, the credit union should notify its members as soon as notification will no longer interfere with the investigation.

1. Sensitive Member Information

Under Part 748.0, a credit union must protect against unauthorized access to or use of member information that could result in substantial harm or inconvenience to any member. Substantial harm or inconvenience is most likely to result from improper access to *sensitive member information* because this type of information is most likely to be misused, as in the commission of identity theft.

For purposes of this Guidance, sensitive member information means a member's name, address, or telephone number, in conjunction with the member's social security number, driver's license number, account number, credit or debit card number, or a personal identification number or password that would permit access to the member's account. *Sensitive member information* also includes any combination of components of member information that would allow someone to log onto or access the member's account, such as user name and password or password and account number.

2. Affected Members

If a credit union, based upon its investigation, can determine from its logs or other data precisely which members' information has been improperly accessed, it may limit notification to those members with regard to whom the credit union determines that misuse of their information has occurred or is reasonably possible. However, there may be situations where the credit union determines that a group of files has been accessed improperly, but is unable to identify which specific member's information has been accessed. If the circumstances of the unauthorized access lead the credit union to determine that misuse of the information is reasonably possible, it should notify all members in the group.

B. Content of Member Notice

1. Member notice should be given in a clear and conspicuous manner. The notice should describe the incident in general terms and the type of member information that was the subject of unauthorized access or use. It also should generally describe what the credit union has done to protect the members' information from further unauthorized access. In addition, it should include a telephone number that members can call for further information and assistance.[41] The notice also should remind members of the need to remain vigilant over the next twelve to twenty-four months, and to promptly report incidents of suspected identity theft to the credit union. The notice should include the following additional items, when appropriate:

a. A recommendation that the member review account statements and immediately report any suspicious activity to the credit union;

b. A description of fraud alerts and an explanation of how the member may place a fraud alert in the member's consumer reports to put the member's creditors on notice that the member may be a victim of fraud;

c. A recommendation that the member periodically obtain credit reports from each nationwide credit reporting agency and have information relating to fraudulent transactions deleted;

d. An explanation of how the member may obtain a credit report free of charge; and

e. Information about the availability of the FTC's online guidance regarding steps a consumer can take to protect against identity theft. The notice should encourage the member to report any incidents of identity theft to the FTC, and should provide the FTC's Web site address and toll-free telephone number that members may use to obtain the identity theft guidance and report suspected incidents of identity theft.[42]

2. NCUA encourages credit unions to notify the nationwide consumer reporting agencies prior to sending notices to a large number of members that include contact information for the reporting agencies.

C. Delivery of Member Notice

Member notice should be delivered in any manner designed to ensure that a member can reasonably be expected to receive it. For example, the credit union may choose to contact all members affected by telephone or by mail, or by electronic mail for those members for whom it has a valid e-mail address and who have agreed to receive communications electronically.

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[41] The credit union should, therefore, ensure that it has reasonable policies and procedures in place, including trained personnel, to respond appropriately to member inquiries and requests for assistance.

[42] Currently, the FTC Web site for the ID Theft brochure and the FTC Hotline phone number are *http://www.ftc.gov/idtheft* and 1–877–IDTHEFT. The credit union may also refer members to any materials developed pursuant to section 15(1)(b) of the FACT Act (educational materials developed by the FTC to teach the public how to prevent identity theft).

Reader Aids

Federal Register

Vol. 70, No. 83

Monday, May 2, 2005

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

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FEDERAL REGISTER PAGES AND DATE, MAY

22585–22780 2

CFR PARTS AFFECTED DURING MAY

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT MAY 2, 2005

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation, importation, and interstate transportation of animals and animal products:

Brucellosis in swine—

Validated brucellosis-free States; list additions; published 5-2-05

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Pacific halibut; subsistence fishing; published 4-1-05

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Maine; published 3-1-05

Air quality implementation plans; approval and promulgation; various States:

Ohio; published 3-18-05

Solid wastes:

Products containing recovered materials; comprehensive procurement guideline; published 4-30-04

Water pollution; effluent guidelines for point source categories:

Transportation equipment cleaning operations; correction; published 2-1-05

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Colorado and Wyoming; published 4-6-05

JUSTICE DEPARTMENT

Drug Enforcement Administration

Controlled substances; manufacturers, distributors, and dispensers; registration:

Reverse distributors; definition and registration; published 5-2-05

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Presidential records:

Denial of access; appeals extension; published 4-1-05

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

British Aerospace; published 3-28-05

British Aerospace; correction; published 4-14-05

Fairchild Aircraft, Inc.; published 3-21-05

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Right-of-way and environment:

Highway traffic and construction noise; abatement procedures; published 4-1-05

VETERANS AFFAIRS DEPARTMENT

Loan guaranty:

Hybrid adjustable rate mortgages; published 5-2-05

Medical benefits:

Elimination of copayment for smoking cessation counseling; published 5-2-05

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cotton classing, testing and standards:

Classification services to growers; 2004 user fees; Open for comments until further notice; published 5-28-04 [FR 04-12138]

Cotton classing, testing, and standards:

Classification services to growers; 2005 user fees; comments due by 5-11-05; published 4-26-05 [FR 05-08373]

Quality Systems Verification Programs; user-fee schedule; comments due by 5-9-05; published 4-7-05 [FR 05-06957]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:

Oriental fruit fly; comments due by 5-9-05; published 3-8-05 [FR 05-04350]

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Ready-to-eat meat and poultry products;

Risk assessments; comment request and meeting; comments due by 5-9-05; published 3-24-05 [FR 05-05951]

COMMERCE DEPARTMENT

International Trade Administration

Steel Import Monitoring and Analysis System; comments due by 5-10-05; published 3-11-05 [FR 05-04971]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Magnuson-Stevens Act provisions—

Pacific Coast groundfish; comments due by 5-9-05; published 4-8-05 [FR 05-07063]

COMMERCE DEPARTMENT

Patent and Trademark Office

Patent cases:

Trademark Electronic Application System filing; reduced fee requirement; comments due by 5-9-05; published 4-7-05 [FR 05-06947]

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

Semi-annual agenda; Open for comments until further notice; published 12-22-03 [FR 03-25121]

DEFENSE DEPARTMENT

Acquisition regulations:

Pilot Mentor-Protege Program; Open for comments until further notice; published 12-15-04 [FR 04-27351]

Federal Acquisition Regulation (FAR):

Architect-engineer services; contracting improvements; comments due by 5-9-05; published 3-9-05 [FR 05-04084]

Certain subcontract notification requirements; elimination; comments due by 5-9-05; published 3-9-05 [FR 05-04092]

Increased justification and approval threshold for DoD, NASA and Coast Guard; comments due by 5-9-05; published 3-9-05 [FR 05-04085]

Landscaping and pest control services added to Small Business Competitiveness Demonstration Program; comments due by 5-9-05; published 3-9-05 [FR 05-04087]

EDUCATION DEPARTMENT

Grants and cooperative agreements; availability, etc.:

Vocational and adult education—

Smaller Learning Communities Program; Open for comments until further notice; published 2-25-05 [FR E5-00767]

ENERGY DEPARTMENT

Meetings:

Environmental Management Site-Specific Advisory Board—

Oak Ridge Reservation, TN; Open for comments until further notice; published 11-19-04 [FR 04-25693]

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Commercial and industrial equipment; energy efficiency program:

Test procedures and efficiency standards—

Commercial packaged boilers; Open for comments until further notice; published 10-21-04 [FR 04-17730]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric rate and corporate regulation filings:

Virginia Electric & Power Co. et al.; Open for comments until further notice; published 10-1-03 [FR 03-24818]

ENVIRONMENTAL PROTECTION AGENCY

Air programs:

Stratospheric ozone protection—

Refrigerant recycling; substitute refrigerants; comments due by 5-13-05; published 4-13-05 [FR 05-07406]

Refrigerant recycling; substitute refrigerants; comments due by 5-13-05; published 4-13-05 [FR 05-07407]

Air quality implementation plans; approval and promulgation; various States:
Georgia; comments due by 5-12-05; published 4-12-05 [FR 05-07307]
Indiana; comments due by 5-12-05; published 4-12-05 [FR 05-07328]
Texas; comments due by 5-9-05; published 4-7-05 [FR 05-06944]
Environmental statements; availability, etc.:
Coastal nonpoint pollution control program—
Minnesota and Texas; Open for comments until further notice; published 10-16-03 [FR 03-26087]
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Clofentezine; comments due by 5-9-05; published 3-9-05 [FR 05-04335]
Fenbuconazole; comments due by 5-9-05; published 3-9-05 [FR 05-04474]
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 5-11-05; published 4-11-05 [FR 05-07230]
Water pollution control:
National Pollutant Discharge Elimination System—
Concentrated animal feeding operations in New Mexico and Oklahoma; general permit for discharges; Open for comments until further notice; published 12-7-04 [FR 04-26817]
Water pollution; effluent guidelines for point source categories:
Meat and poultry products processing facilities; Open for comments until further notice; published 9-8-04 [FR 04-12017]

FEDERAL COMMUNICATIONS COMMISSION

Committees; establishment, renewal, termination, etc.:
Technological Advisory Council; Open for comments until further notice; published 3-18-05 [FR 05-05403]
Common carrier services:
Interconnection—
Incumbent local exchange carriers unbounding obligations; local competition provisions; wireline services offering advanced telecommunications capability; Open for comments until further notice; published 12-29-04 [FR 04-28531]
Radio stations; table of assignments:
California; comments due by 5-9-05; published 4-4-05 [FR 05-06557]
Colorado and Texas; comments due by 5-12-05; published 4-13-05 [FR 05-07347]
Florida; comments due by 5-9-05; published 4-6-05 [FR 05-06555]
Georgia; comments due by 5-9-05; published 4-4-05 [FR 05-06558]
Indiana; comments due by 5-9-05; published 4-4-05 [FR 05-06564]
Kansas; comments due by 5-10-05; published 4-13-05 [FR 05-07078]
Kentucky; comments due by 5-12-05; published 4-13-05 [FR 05-07058]
Massachusetts; comments due by 5-9-05; published 4-4-05 [FR 05-06556]
Minnesota; comments due by 5-9-05; published 4-4-05 [FR 05-06563]
Mississippi; comments due by 5-10-05; published 4-13-05 [FR 05-07077]
Nevada; comments due by 5-9-05; published 4-4-05 [FR 05-06553]
Nevada and Pennsylvania; comments due by 5-10-05; published 4-13-05 [FR 05-07081]
North Carolina; comments due by 5-9-05; published 4-6-05 [FR 05-06565]
Oklahoma; comments due by 5-10-05; published 4-13-05 [FR 05-07067]
Pennsylvania; comments due by 5-9-05; published 4-4-05 [FR 05-06568]
Tennessee and Alabama; comments due by 5-10-05; published 4-13-05 [FR 05-07054]
Texas; comments due by 5-9-05; published 4-4-05 [FR 05-06554]
Various States; comments due by 5-9-05; published 4-6-05 [FR 05-06552]
Virginia; comments due by 5-12-05; published 4-13-05 [FR 05-07062]

FEDERAL DEPOSIT INSURANCE CORPORATION

Community Reinvestment Act; implementation:
Small banks; lending, investment, and service tests; eligibility requirements evaluation; comments due by 5-10-05; published 3-11-05 [FR 05-04797]
Meetings:
Petition for Rulemaking to Preempt Certain State Laws; public hearing; comments due by 5-9-05; published 3-21-05 [FR 05-05499]

FEDERAL RESERVE SYSTEM

Community Reinvestment Act; implementation:
Small banks; lending, investment, and service tests; eligibility requirements evaluation; comments due by 5-10-05; published 3-11-05 [FR 05-04797]

GENERAL SERVICES ADMINISTRATION

Acquisition regulations:
Commercial item contracts, consequential damages waiver and post award audit provisions; correction; comments due by 5-10-05; published 4-12-05 [FR 05-07039]
Commercial item contracts, consequential damages waiver and post award audit provisions
Correction; comments due by 5-10-05; published 3-17-05 [FR 05-05273]
Federal Acquisition Regulation (FAR):
Architect-engineer services; contracting improvements; comments due by 5-9-05; published 3-9-05 [FR 05-04084]
Certain subcontract notification requirements; elimination; comments due by 5-9-05; published 3-9-05 [FR 05-04092]
Increased justification and approval threshold for DoD, NASA and Coast Guard; comments due by 5-9-05; published 3-9-05 [FR 05-04085]
Landscaping and pest control services added to Small Business Competitiveness Demonstration Program; comments due by 5-9-05; published 3-9-05 [FR 05-04087]

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

Medicare:
Claims appeal procedures; changes; comments due by 5-9-05; published 3-8-05 [FR 05-04062]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Reports and guidance documents; availability, etc.:
Evaluating safety of antimicrobial new animal drugs with regard to their microbiological effects on bacteria of human health concern; Open for comments until further notice; published 10-27-03 [FR 03-27113]
Medical devices—
Dental noble metal alloys and base metal alloys; Class II special controls; Open for comments until further notice; published 8-23-04 [FR 04-19179]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Anchorage regulations:
Maryland; Open for comments until further notice; published 1-14-04 [FR 04-00749]
Drawbridge operations:
Illinois; comments due by 5-12-05; published 4-12-05 [FR 05-07326]
Ports and waterways safety:
Charleston, SC; safety zone; comments due by 5-9-05; published 4-27-05 [FR 05-08351]
Cleveland, OH; comments due by 5-9-05; published 4-7-05 [FR 05-06952]
New York fireworks displays; comments due by 5-11-05; published 4-11-05 [FR 05-07209]
Rulemaking petitions:
Fall River, MA; comments due by 5-9-05; published 3-10-05 [FR 05-04600]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species permit applications
Recovery plans—
Paiute cutthroat trout; Open for comments until further notice; published 9-10-04 [FR 04-20517]

Migratory bird permits:
Falconry regulations; comments due by 5-10-05; published 2-9-05 [FR 05-02378]

JUSTICE DEPARTMENT
Alcohol, Tobacco, Firearms, and Explosives Bureau
Firearms:
Machine guns, destructive devices, and certain other firearms; pistol definitions; comments due by 5-9-05; published 4-7-05 [FR 05-06932]

LABOR DEPARTMENT
Employee Benefits Security Administration
Employee Retirement Income Security Act:
Abandoned individual retirement account plans; termination; comments due by 5-9-05; published 3-10-05 [FR 05-04464]

LABOR DEPARTMENT
Veterans Employment and Training Service
Uniformed Services Employment and Reemployment Rights Act of 1994; implementation:
Rights, benefits, and obligations of employees and employers; comments due by 5-9-05; published 3-10-05 [FR 05-04871]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Federal Acquisition Regulation (FAR):
Architect-engineer services; contracting improvements; comments due by 5-9-05; published 3-9-05 [FR 05-04084]
Certain subcontract notification requirements; elimination; comments due by 5-9-05; published 3-9-05 [FR 05-04092]
Increased justification and approval threshold for DoD, NASA and Coast Guard; comments due by 5-9-05; published 3-9-05 [FR 05-04085]
Landscaping and pest control services added to Small Business Competitiveness Demonstration Program; comments due by 5-9-05; published 3-9-05 [FR 05-04087]

NUCLEAR REGULATORY COMMISSION
Environmental statements; availability, etc.:
Fort Wayne State Developmental Center; Open for comments until further notice; published 5-10-04 [FR 04-10516]

PENSION BENEFIT GUARANTY CORPORATION
Premium declarations; electronic filing requirement; comments due by 5-9-05; published 3-9-05 [FR 05-04536]
Single-employer and multiemployer plans:
Mortality assumptions, interest rate structure, etc; comments due by 5-13-05; published 3-14-05 [FR 05-04950]

PERSONNEL MANAGEMENT OFFICE
Employment:
Homeland Security Act of 2002; implementation—
Alternative ranking and selection procedures; veterans preference; comments due by 5-9-05; published 4-7-05 [FR 05-06841]

SECURITIES AND EXCHANGE COMMISSION
Investment companies:
Redeemable securities; mutual fund redemption fees; comments due by 5-9-05; published 3-18-05 [FR 05-05318]

SMALL BUSINESS ADMINISTRATION
Debt Collection Improvement Act of 1996; implementation:
Administrative wage garnishment provisions; comments due by 5-9-05; published 4-7-05 [FR 05-06898]
Disaster loan areas:
Maine; Open for comments until further notice; published 2-17-04 [FR 04-03374]

OFFICE OF UNITED STATES TRADE REPRESENTATIVE
Trade Representative, Office of United States
Generalized System of Preferences:
2003 Annual Product Review, 2002 Annual Country Practices Review, and previously deferred product decisions; petitions disposition; Open for comments until further notice; published 7-6-04 [FR 04-15361]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Agusta S.p.A.; comments due by 5-9-05; published 3-8-05 [FR 05-04405]
Boeing; comments due by 5-9-05; published 3-23-05 [FR 05-05694]
Eurocopter France; comments due by 5-9-05; published 3-8-05 [FR 05-04406]
Grob-Werke; comments due by 5-10-05; published 3-23-05 [FR 05-05707]
Pilatus Aircraft Ltd.; comments due by 5-13-05; published 4-13-05 [FR 05-07382]
Rolls-Royce plc; comments due by 5-9-05; published 3-9-05 [FR 05-04076]
Airworthiness standards:
Special conditions—
Lancair LC41-550FG and LC42-550FG airplanes; comments due by 5-13-05; published 4-13-05 [FR 05-07427]
Twin Commander Aircraft models 690C, 690D, 695, 695A, and 695B airplanes; comments due by 5-13-05; published 4-13-05 [FR 05-07430]
Class E airspace; comments due by 5-9-05; published 3-10-05 [FR 05-04655]
Restricted areas; comments due by 5-12-05; published 3-28-05 [FR 05-05965]

TREASURY DEPARTMENT
Comptroller of the Currency
Community Reinvestment Act; implementation:
Small banks; lending, investment, and service tests; eligibility requirements evaluation; comments due by 5-10-05; published 3-11-05 [FR 05-04797]

TREASURY DEPARTMENT
Alcohol and Tobacco Tax and Trade Bureau
Alcohol; viticultural area designations:
Fort Ross-Seaview; Sonoma County, CA; comments due by 5-9-05; published 3-8-05 [FR 05-04390]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal_register/public_laws/public_laws.html.*

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S. 167/P.L. 109–9

Family Entertainment and Copyright Act of 2005 (Apr. 27, 2005; 119 Stat. 218)

Last List April 22, 2005

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Title	Stock Number	Price	Revision Date
1	(869–056–00001–4)	5.00	Jan. 1, 2005
2	(869–056–00002–2)	5.00	Jan. 1, 2005
3 (2003 Compilation and Parts 100 and 101)	(869–052–00002–7)	35.00	[1] Jan. 1, 2004
4	(869–056–00004–9)	10.00	[4] Jan. 1, 2005
5 Parts:			
1–699	(869–056–00005–7)	60.00	Jan. 1, 2005
700–1199	(869–056–00006–5)	50.00	Jan. 1, 2005
1200–End	(869–056–00007–3)	61.00	Jan. 1, 2005
6	(869–056–00008–1)	10.50	Jan. 1, 2005
7 Parts:			
1–26	(869–056–00009–0)	44.00	Jan. 1, 2005
27–52	(869–056–00010–3)	49.00	Jan. 1, 2005
53–209	(869–056–00011–1)	37.00	Jan. 1, 2005
210–299	(869–056–00012–0)	62.00	Jan. 1, 2005
300–399	(869–056–00013–8)	46.00	Jan. 1, 2005
400–699	(869–056–00014–6)	42.00	Jan. 1, 2005
700–899	(869–056–00015–4)	43.00	Jan. 1, 2005
900–999	(869–056–00016–2)	60.00	Jan. 1, 2005
1000–1199	(869–056–00017–1)	22.00	Jan. 1, 2005
1200–1599	(869–056–00018–9)	61.00	Jan. 1, 2005
1600–1899	(869–056–00019–7)	64.00	Jan. 1, 2005
1900–1939	(869–056–00020–1)	31.00	Jan. 1, 2005
1940–1949	(869–056–00021–9)	50.00	Jan. 1, 2005
1950–1999	(869–056–00022–7)	46.00	Jan. 1, 2005
2000–End	(869–056–00023–5)	50.00	Jan. 1, 2005
8	(869–056–00024–3)	63.00	Jan. 1, 2005
9 Parts:			
1–199	(869–056–00025–1)	61.00	Jan. 1, 2005
200–End	(869–056–00026–0)	58.00	Jan. 1, 2005
10 Parts:			
1–50	(869–056–00027–8)	61.00	Jan. 1, 2005
51–199	(869–056–00028–6)	58.00	Jan. 1, 2005
200–499	(869–056–00029–4)	46.00	Jan. 1, 2005
500–End	(869–056–00030–8)	62.00	Jan. 1, 2005
11	(869–056–00031–6)	41.00	Jan. 1, 2005
12 Parts:			
1–199	(869–056–00032–4)	34.00	Jan. 1, 2005
200–219	(869–056–00033–2)	37.00	Jan. 1, 2005
220–299	(869–056–00034–1)	61.00	Jan. 1, 2005
300–499	(869–056–00035–9)	47.00	Jan. 1, 2005
500–599	(869–056–00036–7)	39.00	Jan. 1, 2005
600–899	(869–056–00037–5)	56.00	Jan. 1, 2005
900–End	(869–056–00038–3)	50.00	Jan. 1, 2005
13	(869–056–00039–1)	55.00	Jan. 1, 2005
14 Parts:			
1–59	(869–056–00040–5)	63.00	Jan. 1, 2005
60–139	(869–056–00041–3)	61.00	Jan. 1, 2005
140–199	(869–056–00042–1)	30.00	Jan. 1, 2005
200–1199	(869–056–00043–0)	50.00	Jan. 1, 2005
1200–End	(869–056–00044–8)	45.00	Jan. 1, 2005
15 Parts:			
0–299	(869–056–00045–6)	40.00	Jan. 1, 2005
300–799	(869–056–00046–4)	60.00	Jan. 1, 2005
800–End	(869–056–00047–2)	42.00	Jan. 1, 2005
16 Parts:			
0–999	(869–056–00048–1)	50.00	Jan. 1, 2005
1000–End	(869–056–00049–9)	60.00	Jan. 1, 2005
17 Parts:			
1–199	(869–052–00050–7)	50.00	Apr. 1, 2004
200–239	(869–052–00051–5)	58.00	Apr. 1, 2004
240–End	(869–052–00052–3)	62.00	Apr. 1, 2004
18 Parts:			
1–399	(869–052–00053–1)	62.00	Apr. 1, 2004
400–End	(869–052–00054–0)	26.00	Apr. 1, 2004
19 Parts:			
1–140	(869–052–00055–8)	61.00	Apr. 1, 2004
141–199	(869–052–00056–6)	58.00	Apr. 1, 2004
200–End	(869–052–00057–4)	31.00	Apr. 1, 2004
20 Parts:			
1–399	(869–052–00058–2)	50.00	Apr. 1, 2004
400–499	(869–052–00059–1)	64.00	Apr. 1, 2004
500–End	(869–052–00060–9)	63.00	Apr. 1, 2004
21 Parts:			
1–99	(869–052–00061–2)	42.00	Apr. 1, 2004
100–169	(869–052–00062–1)	49.00	Apr. 1, 2004
170–199	(869–052–00063–9)	50.00	Apr. 1, 2004
200–299	(869–052–00064–7)	17.00	Apr. 1, 2004
300–499	(869–052–00065–5)	31.00	Apr. 1, 2004
500–599	(869–052–00066–3)	47.00	Apr. 1, 2004
600–799	(869–052–00067–1)	15.00	Apr. 1, 2004
800–1299	(869–052–00068–0)	58.00	Apr. 1, 2004
1300–End	(869–052–00069–8)	24.00	Apr. 1, 2004
22 Parts:			
1–299	(869–052–00070–1)	63.00	Apr. 1, 2004
300–End	(869–052–00071–0)	45.00	Apr. 1, 2004
23	(869–052–00072–8)	45.00	Apr. 1, 2004
24 Parts:			
0–199	(869–052–00073–6)	60.00	Apr. 1, 2004
200–499	(869–052–00074–4)	50.00	Apr. 1, 2004
500–699	(869–052–00075–2)	30.00	Apr. 1, 2004
700–1699	(869–052–00076–1)	61.00	Apr. 1, 2004
1700–End	(869–052–00077–9)	30.00	Apr. 1, 2004
25	(869–052–00078–7)	63.00	Apr. 1, 2004
26 Parts:			
§§ 1.0–1–1.60	(869–052–00079–5)	49.00	Apr. 1, 2004
§§ 1.61–1.169	(869–052–00080–9)	63.00	Apr. 1, 2004
§§ 1.170–1.300	(869–052–00081–7)	60.00	Apr. 1, 2004
§§ 1.301–1.400	(869–052–00082–5)	46.00	Apr. 1, 2004
§§ 1.401–1.440	(869–052–00083–3)	62.00	Apr. 1, 2004
§§ 1.441–1.500	(869–052–00084–1)	57.00	Apr. 1, 2004
§§ 1.501–1.640	(869–052–00085–0)	49.00	Apr. 1, 2004
§§ 1.641–1.850	(869–052–00086–8)	60.00	Apr. 1, 2004
§§ 1.851–1.907	(869–052–00087–6)	61.00	Apr. 1, 2004
§§ 1.908–1.1000	(869–052–00088–4)	60.00	Apr. 1, 2004
§§ 1.1001–1.1400	(869–052–00089–2)	61.00	Apr. 1, 2004
§§ 1.1401–1.1503–2A	(869–052–00090–6)	55.00	Apr. 1, 2004
§§ 1.1551–End	(869–052–00091–4)	55.00	Apr. 1, 2004
2–29	(869–052–00092–2)	60.00	Apr. 1, 2004
30–39	(869–052–00093–1)	41.00	Apr. 1, 2004
40–49	(869–052–00094–9)	28.00	Apr. 1, 2004
50–299	(869–052–00095–7)	41.00	Apr. 1, 2004

Title	Stock Number	Price	Revision Date
300–499	(869–052–00096–5)	61.00	Apr. 1, 2004
500–599	(869–052–00097–3)	12.00	[5]Apr. 1, 2004
600–End	(869–052–00098–1)	17.00	Apr. 1, 2004
27 Parts:			
1–199	(869–052–00099–0)	64.00	Apr. 1, 2004
200–End	(869–052–00100–7)	21.00	Apr. 1, 2004
28 Parts:			
0–42	(869–052–00101–5)	61.00	July 1, 2004
43–End	(869–052–00102–3)	60.00	July 1, 2004
29 Parts:			
0–99	(869–052–00103–1)	50.00	July 1, 2004
100–499	(869–052–00104–0)	23.00	July 1, 2004
500–899	(869–052–00105–8)	61.00	July 1, 2004
900–1899	(869–052–00106–6)	36.00	July 1, 2004
1900–1910 (§§ 1900 to 1910.999)	(869–052–00107–4)	61.00	July 1, 2004
1910 (§§ 1910.1000 to end)	(869–052–00108–2)	46.00	[8]July 1, 2004
1911–1925	(869–052–00109–1)	30.00	July 1, 2004
1926	(869–052–00110–4)	50.00	July 1, 2004
1927–End	(869–052–00111–2)	62.00	July 1, 2004
30 Parts:			
1–199	(869–052–00112–1)	57.00	July 1, 2004
200–699	(869–052–00113–9)	50.00	July 1, 2004
700–End	(869–052–00114–7)	58.00	July 1, 2004
31 Parts:			
0–199	(869–052–00115–5)	41.00	July 1, 2004
200–End	(869–052–00116–3)	65.00	July 1, 2004
32 Parts:			
1–39, Vol. I		15.00	[2]July 1, 1984
1–39, Vol. II		19.00	[2]July 1, 1984
1–39, Vol. III		18.00	[2]July 1, 1984
1–190	(869–052–00117–1)	61.00	July 1, 2004
191–399	(869–052–00118–0)	63.00	July 1, 2004
400–629	(869–052–00119–8)	50.00	[8]July 1, 2004
630–699	(869–052–00120–1)	37.00	[7]July 1, 2004
700–799	(869–052–00121–0)	46.00	July 1, 2004
800–End	(869–052–00122–8)	47.00	July 1, 2004
33 Parts:			
1–124	(869–052–00123–6)	57.00	July 1, 2004
125–199	(869–052–00124–4)	61.00	July 1, 2004
200–End	(869–052–00125–2)	57.00	July 1, 2004
34 Parts:			
1–299	(869–052–00126–1)	50.00	July 1, 2004
300–399	(869–052–00127–9)	40.00	July 1, 2004
400–End	(869–052–00128–7)	61.00	July 1, 2004
35	(869–052–00129–5)	10.00	[6]July 1, 2004
36 Parts			
1–199	(869–052–00130–9)	37.00	July 1, 2004
200–299	(869–052–00131–7)	37.00	July 1, 2004
300–End	(869–052–00132–5)	61.00	July 1, 2004
37	(869–052–00133–3)	58.00	July 1, 2004
38 Parts:			
0–17	(869–052–00134–1)	60.00	July 1, 2004
18–End	(869–052–00135–0)	62.00	July 1, 2004
39	(869–052–00136–8)	42.00	July 1, 2004
40 Parts:			
1–49	(869–052–00137–6)	60.00	July 1, 2004
50–51	(869–052–00138–4)	45.00	July 1, 2004
52 (52.01–52.1018)	(869–052–00139–2)	60.00	July 1, 2004
52 (52.1019–End)	(869–052–00140–6)	61.00	July 1, 2004
53–59	(869–052–00141–4)	31.00	July 1, 2004
60 (60.1–End)	(869–052–00142–2)	58.00	July 1, 2004
60 (Apps)	(869–052–00143–1)	57.00	July 1, 2004
61–62	(869–052–00144–9)	45.00	July 1, 2004
63 (63.1–63.599)	(869–052–00145–7)	58.00	July 1, 2004
63 (63.600–63.1199)	(869–052–00146–5)	50.00	July 1, 2004
63 (63.1200–63.1439)	(869–052–00147–3)	50.00	July 1, 2004
63 (63.1440–63.8830)	(869–052–00148–1)	64.00	July 1, 2004
63 (63.8980–End)	(869–052–00149–0)	35.00	July 1, 2004
64–71	(869–052–00150–3)	29.00	July 1, 2004
72–80	(869–052–00151–1)	62.00	July 1, 2004
81–85	(869–052–00152–0)	60.00	July 1, 2004
86 (86.1–86.599–99)	(869–052–00153–8)	58.00	July 1, 2004
86 (86.600–1–End)	(869–052–00154–6)	50.00	July 1, 2004
87–99	(869–052–00155–4)	60.00	July 1, 2004
100–135	(869–052–00156–2)	45.00	July 1, 2004
136–149	(869–052–00157–1)	61.00	July 1, 2004
150–189	(869–052–00158–9)	50.00	July 1, 2004
190–259	(869–052–00159–7)	39.00	July 1, 2004
260–265	(869–052–00160–1)	50.00	July 1, 2004
266–299	(869–052–00161–9)	50.00	July 1, 2004
300–399	(869–052–00162–7)	42.00	July 1, 2004
400–424	(869–052–00163–5)	56.00	[8]July 1, 2004
425–699	(869–052–00164–3)	61.00	July 1, 2004
700–789	(869–052–00165–1)	61.00	July 1, 2004
790–End	(869–052–00166–0)	61.00	July 1, 2004
41 Chapters:			
1, 1–1 to 1–10		13.00	[3]July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3]July 1, 1984
3–6		14.00	[3]July 1, 1984
7		6.00	[3]July 1, 1984
8		4.50	[3]July 1, 1984
9		13.00	[3]July 1, 1984
10–17		9.50	[3]July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3]July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3]July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3]July 1, 1984
19–100		13.00	[3]July 1, 1984
1–100	(869–052–00167–8)	24.00	July 1, 2004
101	(869–052–00168–6)	21.00	July 1, 2004
102–200	(869–052–00169–4)	56.00	July 1, 2004
201–End	(869–052–00170–8)	24.00	July 1, 2004
42 Parts:			
1–399	(869–052–00171–6)	61.00	Oct. 1, 2004
400–429	(869–052–00172–4)	63.00	Oct. 1, 2004
430–End	(869–052–00173–2)	64.00	Oct. 1, 2004
43 Parts:			
1–999	(869–052–00174–1)	56.00	Oct. 1, 2004
1000–end	(869–052–00175–9)	62.00	Oct. 1, 2004
44	(869–052–00176–7)	50.00	Oct. 1, 2004
45 Parts:			
1–199	(869–052–00177–5)	60.00	Oct. 1, 2004
200–499	(869–052–00178–3)	34.00	Oct. 1, 2004
500–1199	(869–052–00179–1)	56.00	Oct. 1, 2004
1200–End	(869–052–00180–5)	61.00	Oct. 1, 2004
46 Parts:			
1–40	(869–052–00181–3)	46.00	Oct. 1, 2004
41–69	(869–052–00182–1)	39.00	Oct. 1, 2004
70–89	(869–052–00183–0)	14.00	Oct. 1, 2004
90–139	(869–052–00184–8)	44.00	Oct. 1, 2004
140–155	(869–052–00185–6)	25.00	Oct. 1, 2004
156–165	(869–052–00186–4)	34.00	Oct. 1, 2004
166–199	(869–052–00187–2)	46.00	Oct. 1, 2004
200–499	(869–052–00188–1)	40.00	Oct. 1, 2004
500–End	(869–052–00189–9)	25.00	Oct. 1, 2004
47 Parts:			
0–19	(869–052–00190–2)	61.00	Oct. 1, 2004
20–39	(869–052–00191–1)	46.00	Oct. 1, 2004
40–69	(869–052–00192–9)	40.00	Oct. 1, 2004
70–79	(869–052–00193–8)	63.00	Oct. 1, 2004
80–End	(869–052–00194–5)	61.00	Oct. 1, 2004
48 Chapters:			
1 (Parts 1–51)	(869–052–00195–3)	63.00	Oct. 1, 2004
1 (Parts 52–99)	(869–052–00196–1)	49.00	Oct. 1, 2004
2 (Parts 201–299)	(869–052–00197–0)	50.00	Oct. 1, 2004
3–6	(869–052–00198–8)	34.00	Oct. 1, 2004
7–14	(869–052–00199–6)	56.00	Oct. 1, 2004
15–28	(869–052–00200–3)	47.00	Oct. 1, 2004
29–End	(869–052–00201–1)	47.00	Oct. 1, 2004

Title	Stock Number	Price	Revision Date
49 Parts:			
1–99	(869–052–00202–0)	60.00	Oct. 1, 2004
100–185	(869–052–00203–8)	63.00	Oct. 1, 2004
186–199	(869–052–00204–6)	23.00	Oct. 1, 2004
200–399	(869–052–00205–4)	64.00	Oct. 1, 2004
400–599	(869–052–00206–2)	64.00	Oct. 1, 2004
600–999	(869–052–00207–1)	19.00	Oct. 1, 2004
1000–1199	(869–052–00208–9)	28.00	Oct. 1, 2004
1200–End	(869–052–00209–7)	34.00	Oct. 1, 2004
50 Parts:			
1–16	(869–052–00210–1)	11.00	Oct. 1, 2004
17.1–17.95	(869–052–00211–9)	64.00	Oct. 1, 2004
17.96–17.99(h)	(869–052–00212–7)	61.00	Oct. 1, 2004
17.99(i)–end and 17.100–end	(869–052–00213–5)	47.00	Oct. 1, 2004
18–199	(869–052–00214–3)	50.00	Oct. 1, 2004
200–599	(869–052–00215–1)	45.00	Oct. 1, 2004
600–End	(869–052–00216–0)	62.00	Oct. 1, 2004
CFR Index and Findings Aids	(869–052–00049–3)	62.00	Jan. 1, 2004
Complete 2005 CFR set		1,342.00	2005
Microfiche CFR Edition:			
Subscription (mailed as issued)		325.00	2005
Individual copies		4.00	2005
Complete set (one-time mailing)		325.00	2004
Complete set (one-time mailing)		298.00	2003

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2004, through January 1, 2005. The CFR volume issued as of January 1, 2004 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2004. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2004. The CFR volume issued as of July 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2002, through July 1, 2004. The CFR volume issued as of July 1, 2002 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2003, through July 1, 2004. The CFR volume issued as of July 1, 2003 should be retained.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—MAY 2005

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
May 2	May 17	June 1	June 16	July 1	August 1
May 3	May 18	June 2	June 17	July 5	August 1
May 4	May 19	June 3	June 20	July 5	August 2
May 5	May 20	June 6	June 20	July 5	August 3
May 6	May 23	June 6	June 20	July 5	August 4
May 9	May 24	June 8	June 23	July 8	August 8
May 10	May 25	June 9	June 24	July 11	August 8
May 11	May 26	June 10	June 27	July 11	August 9
May 12	May 27	June 13	June 27	July 11	August 10
May 13	May 31	June 13	June 27	July 12	August 11
May 16	May 31	June 15	June 30	July 15	August 15
May 17	June 1	June 16	July 1	July 18	August 15
May 18	June 2	June 17	July 5	July 18	August 16
May 19	June 3	June 20	July 5	July 18	August 17
May 20	June 6	June 20	July 5	July 19	August 18
May 23	June 7	June 22	July 7	July 22	August 22
May 24	June 8	June 23	July 8	July 25	August 22
May 25	June 9	June 24	July 11	July 25	August 23
May 26	June 10	June 27	July 11	July 25	August 24
May 27	June 13	June 27	July 11	July 26	August 25
May 31	June 15	June 30	July 15	August 1	August 29